

In the Matter of: )  
 )  
Application for Certification ) Docket No.  
Mirant Corporation's ) 00-AFC-4  
POTRERO POWER PLANT UNIT 7 )  
PROJECT )  
\_\_\_\_\_ )

MONDAY, DECEMBER 9, 2002

10:41 A.M.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert Pernell, Presiding Member

HEARING OFFICER, ADVISORS PRESENT

Stanley J. Valkosky, Hearing Officer

Michael Smith, Advisor

Al Garcia, Advisor

STAFF PRESENT

Dick Ratliff, Senior Staff Counsel

William J. Westerfield, Staff Counsel

Marc S. Pryor, Project Manager

Kevin Kennedy, Siting Project Manager

Gary Reinoehl

Mark Hesters

PUBLIC ADVISER

Roberta Mendonca

REPRESENTING THE APPLICANT

Michael J. Carroll, Attorney  
Latham and Watkins

Mark Harrer, Project Director  
Robert Jenkins  
Mark Stone, General Director, Construction  
Mirant Americas Development, Inc.

Denise Bradley, Senior Landscape Historian  
URS Corporation

Steven C. McClary  
MRW & Associates

INTERVENORS

Jacqueline Minor, Deputy City Attorney  
City and County of San Francisco

Barry R. Flynn, P.E., Principal  
Flynn & Associates  
Consultant to City and County of San Francisco

Alan Ramo, Director  
Our Children's Earth  
Southeast Alliance for Environmental Justice  
Environmental Law and Justice Clinic of  
Golden Gate University School of Law

ALSO PRESENT

Mark R. Paez, Planning and Development  
Port of San Francisco

Johan Galleberg, Grid Planning Engineer  
California Independent System Operator

Karina Garbesi, Assistant Professor  
California State University, Hayward

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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## P R O C E E D I N G S

10:41 a.m.

PRESIDING MEMBER PERNELL: Good morning.

This is the third set of evidentiary hearings for the proposed Potrero Unit 7 project. My name is Commissioner Robert Pernell. I'm the Presiding Member of the Committee. Commissioner Keese is the Associate Member, who was unable to be here this morning.

To my left, your right, is my Advisor, Al Garcia. And to my right, your left, is the Hearing Officer, Mr. Valkosky. Mr. Valkosky will be conducting the hearing this morning. And at this time I'd like to turn the hearing over to Mr. Valkosky.

HEARING OFFICER VALKOSKY: Thank you, Commissioner Pernell. I'd like to start by having the parties introduce themselves and those they have present with them.

Mr. Carroll.

MR. CARROLL: Good morning. Mike Carroll with Latham and Watkins on behalf of the applicant. Here with me today are Mark Harrer and Robert Jenkins of Mirant. We also have our witnesses that will be testifying today. They

1 include Mark Stone from Mirant; Denise Bradley  
2 from URS Corporation; and Mr. McClary from MRW and  
3 Associates.

4 HEARING OFFICER VALKOSKY: Thank you.  
5 Mr. Westerfield.

6 MR. WESTERFIELD: Bill Westerfield  
7 representing staff at the Energy Commission. To  
8 my left is Gary Reinoehl, who will be testifying  
9 on cultural resources. We also have witnesses  
10 coming that are not present at the moment on local  
11 system effects.

12 Also, of course, we have Marc Pryor, our  
13 Project Manager; and Kevin Kennedy, also  
14 management for staff.

15 HEARING OFFICER VALKOSKY: Thank you.  
16 Ms. Minor.

17 MS. MINOR: Good morning. Jackie Minor  
18 for the City and County of San Francisco. Here  
19 with me today is Mark Paez with the Port of San  
20 Francisco, who is the City's cultural resources  
21 witness.

22 HEARING OFFICER VALKOSKY: Mr. Ramo.

23 MR. RAMO: Alan Ramo for intervenors Our  
24 Children's Earth and Southeast Alliance for  
25 Environmental Justice. And my witness, Karina

1 Garbesi, is nearby.

2 HEARING OFFICER VALKOSKY: Thank you. I  
3 notice the Public Adviser is not present. Mr.  
4 Pryor, do you have a statement on behalf of the  
5 Public Adviser?

6 MR. PRYOR: Yes, I do. I placed a sign-  
7 in sheet at the table. Also there are blue  
8 comment cards for whoever wishes to make a public  
9 comment during the portion for public comment.  
10 They can turn them in to me, and I'll be over in  
11 that corner most of the time.

12 HEARING OFFICER VALKOSKY: Okay, thank  
13 you.

14 The Committee noticed hearings for today  
15 and, if necessary, tomorrow in a notice and order  
16 issued on October 31st of this year. The document  
17 also contained filing dates of testimony, December  
18 3rd. The Committee clarified today's agenda by  
19 providing notice that we would also consider  
20 certain related procedural items.

21 In addition to the February 2002 staff  
22 assessment, the AFC document and the associated  
23 supplements, filings pertinent to this set of  
24 hearings include applicant's prepared testimony  
25 filed November 14th; staff's supplemental



1 testimony on cultural resources and revised  
2 testimony on local system effects filed December  
3 2nd; the City and County's prepared testimony and  
4 attachments on cultural resources filed on  
5 December 2nd; and intervenors OCE and SAEJ  
6 prepared testimony on local system effects and  
7 request for additional staff investigation filed  
8 on November 27th.

9           The purpose of these formal evidentiary  
10 hearings is to establish a factual record  
11 necessary to reach a decision in this case. This  
12 is done through the taking of written and oral  
13 testimony, as well as exhibits from the parties.  
14 We will follow a format similar to that of the  
15 previous hearings that we've conducted in this  
16 case.

17           In addition, we'll discuss the  
18 procedural items identified on the agenda and then  
19 the notice of clarification at the conclusion of  
20 the evidentiary presentations either today or  
21 tomorrow.

22           Are there any questions? Okay, with  
23 that we'll begin with the first topic on the  
24 agenda, continuation of the cultural resources  
25 topic.

1 Mr. Carroll.

2 MR. CARROLL: Thank you. And we will  
3 begin with Ms. Bradley.

4 HEARING OFFICER VALKOSKY: May we have  
5 the witness sworn, please.  
6 Whereupon,

7 DENISE BRADLEY  
8 was called as a witness herein, and after first  
9 having been duly sworn, was examined and testified  
10 as follows:

11 DIRECT EXAMINATION

12 BY MR. CARROLL:

13 Q Would you please state your name and  
14 title and employer.

15 A Yes. My name is Denise Bradley. I'm a  
16 Senior Landscape Historian with URS Corporation.

17 Q And did you provide testimony in this  
18 matter on July 22, 2002?

19 A Yes, I did.

20 Q Are you the same Denise Bradley that  
21 submitted supplemental prepared testimony in this  
22 proceeding which has been identified as exhibit  
23 63?

24 A Yes.

25 Q If I were to ask you the questions

1 contained in your prepared testimony today under  
2 oath, would your answers be the same?

3 A Yes, they would be the same.

4 Q Did you also participate in the  
5 preparation of the document entitled, location of  
6 historic power production facilities on Mirant  
7 property, which was docketed by applicant on  
8 August 21, 2002, and has now been identified as  
9 exhibit 64?

10 A Yes, I did.

11 Q Can you briefly summarize what that  
12 document depicts?

13 A Yes. That document depicts the outline  
14 of the legal parcels on the Potrero Power Plant  
15 site that were included in PG&E's manufactured gas  
16 process in 1914 and 1950 based on Sanborne maps.

17 Q Thank you. Does that complete your  
18 supplemental testimony today?

19 A Yes.

20 MR. CARROLL: Ms. Bradley is now  
21 tendered for cross-examination.

22 HEARING OFFICER VALKOSKY: Ms. Bradley,  
23 did you look at staff's revised conditions in  
24 their testimony, revised conditions of  
25 certification?

1 MS. BRADLEY: Yes, very briefly this  
2 morning was the first time I'd seen it.

3 HEARING OFFICER VALKOSKY: Okay, so do  
4 you have an opinion on the acceptability of those  
5 conditions?

6 MS. BRADLEY: Could you specifically ask  
7 me which ones you mean because I don't have that  
8 in front of me, and I could answer --

9 HEARING OFFICER VALKOSKY: Okay, I'm  
10 referring to the conditions contained in staff's  
11 supplemental testimony, which we have identified  
12 as exhibit 66, their conditions cultural-17, -18  
13 and -19, I believe.

14 MS. BRADLEY: Yes, I read those; and,  
15 yes, I find them acceptable.

16 HEARING OFFICER VALKOSKY: Okay, thank  
17 you. In your testimony you indicate that moving  
18 the meter and compressor house, relocating them  
19 would destroy their historic significance, is that  
20 correct?

21 MS. BRADLEY: It would lessen their  
22 historic significance, yes.

23 HEARING OFFICER VALKOSKY: Okay. Now I  
24 take it, I mean is it fair on my part to conclude  
25 that demolishing them would lessen the

1 significance to a greater extent?

2 MS. BRADLEY: Yes, it would lessen it to  
3 a greater extent, correct.

4 (Laughter.)

5 HEARING OFFICER VALKOSKY: Thank you.  
6 Do you have an opinion as to the acceptability for  
7 mitigation of the cultural resources impact of  
8 contributing an unspecified amount to the  
9 rehabilitation of building 113 as suggested by the  
10 Port?

11 MS. BRADLEY: I do have a personal  
12 professional opinion. It seems like it would be a  
13 reasonable mitigation, yes.

14 HEARING OFFICER VALKOSKY: Okay. Do you  
15 have an amount in mind when you define reasonable  
16 mitigation?

17 MS. BRADLEY: No, I'm sorry, I don't.

18 HEARING OFFICER VALKOSKY: Thank you.  
19 Mr. Westerfield.

20 MR. WESTERFIELD: Mr. Valkosky, staff  
21 has no questions.

22 HEARING OFFICER VALKOSKY: Okay. Ms.  
23 Minor.

24 MS. MINOR: I have just a couple of very  
25 quick questions.

## CROSS-EXAMINATION

BY MS. MINOR:

Q Good morning, Ms. Bradley.

A Good morning.

Q I am looking at the historic parcel map and would just like to make certain that I know the location of the historic gas tank. Can you point that out on the map?

A Yes, I can. If you will look at the existing meter and compressor house, to the southwest there is what looks like a large white circle.

Q Right.

A That's the tank.

Q Okay.

A That's the foundation of the tank that remains.

Q Was this tank used for the historic gassification process? For what purpose was that tank used?

A It was part of a storage process of after the gas was manufactured.

MS. MINOR: Thank you. No further questions.

HEARING OFFICER VALKOSKY: Mr. Ramo.

1 MR. RAMO: No questions.

2 HEARING OFFICER VALKOSKY: Any redirect,  
3 Mr. Carroll?

4 MR. CARROLL: No.

5 HEARING OFFICER VALKOSKY: Anything else  
6 for Ms. Bradley?

7 MR. SPEAKER: Nothing further.

8 MR. CARROLL: At this time application  
9 would ask that exhibit 63 and 64 be admitted into  
10 the record.

11 HEARING OFFICER VALKOSKY: Is there  
12 objection?

13 MR. RAMO: No objection.

14 MS. MINOR: No objection.

15 HEARING OFFICER VALKOSKY: No objection,  
16 exhibit 63, the supplemental testimony of Ms.  
17 Bradley, and exhibit 64, basically the map showing  
18 the historic parcels are admitted.

19 Your next witness, Mr. Carroll.

20 MR. CARROLL: Yes, applicant recalls  
21 Mark Stone to testify in the area of cultural  
22 resources. We'd ask that this witness be sworn.  
23 Whereupon,

24 MARK STONE

25 was called as a witness herein, and after first

1 having been duly sworn, was examined and testified  
2 as follows:

3 DIRECT EXAMINATION

4 BY MR. CARROLL:

5 Q Would you please state your name, title  
6 and employer.

7 A My name's Mark Stone; I'm the General  
8 Manager of Construction for Mirant Corporation.

9 Q And can you briefly summarize your  
10 qualifications.

11 A I've been in the construction business  
12 with Mirant and with the predecessor, Southern,  
13 for 23 years now, in our company's construction.

14 Q And did you also provide testimony in  
15 this matter on July 22, 2002?

16 A Yes, I did.

17 Q And are you the same Mark Stone that  
18 submitted prepared testimony in this proceeding  
19 which has now been identified as exhibit 65?

20 A That's the cost estimate, right.

21 Q What's been identified as exhibit 65 is  
22 your prepared testimony.

23 A Oh, okay. Yes.

24 Q And if I were to ask you the questions  
25 contained in that material today under oath would



1 your answers be the same?

2 A Yes.

3 Q And did you participate in the  
4 preparation of the document entitled, cultural  
5 resources, Unit 7 site plan and locations of meter  
6 and compressor houses, which is attached to your  
7 supplemental prepared testimony as exhibit A?

8 A Yes, I did.

9 Q Could you briefly describe that  
10 document?

11 A That document describes the proposed  
12 location of the new Unit 7 project on the existing  
13 Potrero site. And it shows the current location  
14 of the meter house and compressor house.

15 It primarily illustrates that the  
16 footprint of the new Unit 7 project overlaps the  
17 current location of the meter house and compressor  
18 house.

19 Q And what portion of the Unit 7 project  
20 falls within the current location of the meter  
21 house?

22 A A new retaining wall will have to go on  
23 to support Humboldt Street with the removal of the  
24 meter house. In addition on the extreme south end  
25 of the existing meter house are some of the

1 ancillary structures associated with the northern  
2 gas turbine.

3 Q Could you please explain why the  
4 retaining wall is required, and why it's required  
5 to be in its proposed location?

6 A The current retaining wall is actually  
7 the north wall of the meter house, and could not  
8 withstand a seismic event. Our solution for the  
9 new retaining wall involves the destructive  
10 methodology for that existing structure.

11 You could not build the plant adjacent  
12 to a retained meter house for two reasons.  
13 Collapse of the meter house during a seismic event  
14 might result in falling debris knocking the plant  
15 offline. And it also would prevent critical  
16 maintenance access to the north side of the north  
17 gas turbine.

18 Q Did you analyze other locations on the  
19 site for the Unit 7 project that would have  
20 avoided impacts to the meter house and the  
21 compressor house?

22 A Yes. And we didn't find any that were  
23 feasible locations for Unit 7 that would have  
24 avoided impacting the meter house and the  
25 compressor house structures.

1           MR. CARROLL: At this time we have an  
2 additional exhibit that was not submitted with Mr.  
3 Stone's prepared testimony. It is only a slight  
4 variation on what's been previously marked as  
5 exhibit 47, which I'd like to distribute. And  
6 then Mr. Stone will explain what the document is.

7           (Pause.)

8 BY MR. CARROLL:

9           Q     Mr. Stone, I just distributed a two-page  
10 document titled, conceptual cost estimate  
11 assessment for relocating the meter and compressor  
12 houses, Potrero Power Plant Unit 7 project.

13                  Did you participate in the preparation  
14 of this document?

15           A     Yes, I did.

16           Q     And can you briefly explain what this  
17 document is and summarize its contents?

18           A     The document was based upon information  
19 presented during the hearings on July 22nd and  
20 marked as exhibit 47. It depicts the estimated  
21 costs of relocating the meter house and compressor  
22 house.

23                  The primary difference between exhibit  
24 47 and this new revised document is that I've  
25 included the sources of the cost items included in

1 the estimate.

2 Q Thank you. And those are contained in  
3 the footnotes at the bottom of the page, is that  
4 correct?

5 A That's correct.

6 Q Page 1.

7 A Yes.

8 Q Thank you. In your previously filed  
9 testimony during testimony that you provided on  
10 July 22, 2002, there was a great deal of  
11 discussion about relocation of the meter house and  
12 the compressor house, and whether it was possible  
13 or practical or feasible to relocate those two  
14 buildings. And we had some discussion about the  
15 meaning and use of those different words, do you  
16 recall that discussion?

17 A Yes, I do.

18 Q I'm going to read you the definition of  
19 feasible, as set forth in the California  
20 Environmental Quality Act. Feasible means capable  
21 of being accomplished in a successful manner  
22 within a reasonable period of time taking into  
23 account economic, environmental, social and  
24 technological factors.

25 If I asked you to apply that definition,

1 in your opinion is it feasible to relocate these  
2 two buildings?

3 A No, I don't believe so. It may be  
4 possible. We've talked to firms about how we go  
5 about doing this, and they've indicated that in  
6 theory it can be done. Although there certainly  
7 are engineering challenges associated with it.

8 But once you take into account the  
9 economics, in my opinion, it's not feasible.

10 Q Thank you. Does that complete your  
11 testimony here today?

12 A Yes, it does.

13 MR. CARROLL: Mr. Stone is now tendered  
14 for cross-examination.

15 HEARING OFFICER VALKOSKY: Mr. Carroll,  
16 the conceptual cost estimate that you just handed  
17 out, the updated exhibit 47, do you want to  
18 replace the existing exhibit 47, or do you want  
19 this as another exhibit, exhibit 72?

20 MR. CARROLL: That would be our  
21 proposal. There had been an objection to the  
22 admission of this document based on foundation.  
23 And so the attempt here was to provide the backup  
24 cites to where the cost information came from to  
25 address that objection.

1           So our proposal would be to have this  
2       document marked, and to replace exhibit 47.

3           HEARING OFFICER VALKOSKY:   Okay, we'll  
4       mark this as exhibit 72, which is the next in  
5       numbered order.

6           Just one question.   Mr. Stone, relying  
7       on the factors of feasibility, as presented by Mr.  
8       Carroll, am I correct in understanding that the  
9       basic factor, in your opinion, rendering the  
10      relocation infeasible is economic and not any of  
11      the other factors?

12          MR. STONE:   Depending upon the  
13      circumstances, the schedule could be an issue, as  
14      well as the economics.   And there are some  
15      engineering challenges.   With enough time and  
16      enough money you could probably overcome those  
17      engineering challenges, probably.

18          HEARING OFFICER VALKOSKY:   Mr.  
19      Westerfield.

20          PRESIDING MEMBER PERNELL:   I have a  
21      question.   Mr. Stone, on your document you just  
22      passed out on page 2 you got total conceptual cost  
23      estimates at \$5 million.   And then you have below  
24      that some contingencies which, do we add that to  
25      the \$5 million?

1 I'm just trying to get a -- is the \$5  
2 million a total cost?

3 MR. STONE: It is not the total cost.  
4 This is a very difficult thing to try to estimate.  
5 And what we tried to do is provide as reasonable  
6 boundaries and describe what assumptions we've  
7 made in defining those boundaries.

8 If we move the buildings to a location  
9 onsite, obviously it's less money than if we have  
10 to move the buildings offsite. We don't have to  
11 deal with the issue of transportation offsite; we  
12 don't have to relocate utility lines to clear  
13 pieces of buildings moving through the City  
14 streets and the like.

15 So it's very difficult for us to say  
16 definitively how much this type of thing would  
17 cost. And what we tried to do is quantify those  
18 as assumptions and contingencies on the back end.

19 I think the base cost of 5 million is  
20 something that gives you a feel for what it would  
21 do. It's the more definite portion of the  
22 estimate.

23 PRESIDING MEMBER PERNELL: And that  
24 includes moving the buildings onsite, the 5  
25 million?

1 MR. STONE: I believe that that, by and  
2 large, would include moving them onsite.

3 PRESIDING MEMBER PERNELL: Okay. Thank  
4 you.

5 HEARING OFFICER VALKOSKY: At what  
6 dollar point would you view it as economically  
7 feasible to move onsite?

8 MR. STONE: I think that depends upon  
9 what value you place on the buildings. And for  
10 me, there's very little value to those buildings.  
11 I can't really use them for much in either the  
12 construction or the long-term operation.

13 They hinder our access from a  
14 construction standpoint by taking up space that we  
15 need for other operations, by and large.

16 That notwithstanding, I have to  
17 appreciate that others may value these  
18 differently, and the value to them may be greater  
19 than it is to me.

20 HEARING OFFICER VALKOSKY: Right, so  
21 again, notwithstanding the engineering  
22 considerations and the space, again I'm still  
23 looking for your opinion as to what dollar point  
24 would this be acceptable? At what dollar point?

25 MR. STONE: I really don't have a feel



1 for that.

2 HEARING OFFICER VALKOSKY: Okay. Mr.  
3 Westerfield.

4 MR. WESTERFIELD: Thank you, Mr.  
5 Valkosky. I just have a few questions.

6 CROSS-EXAMINATION

7 BY MR. WESTERFIELD:

8 Q Mr. Stone, good morning.

9 A Good morning.

10 Q I just wanted to follow up on a few  
11 things you mentioned in your direct testimony.  
12 You coauthored what looks like a very thorough,  
13 in-depth analysis of cost, and I suppose the  
14 feasibility of relocating these two historic  
15 buildings to another.

16 Have you performed a similar analysis in  
17 to constructing the new Unit 7 plant while keeping  
18 the meter house in place?

19 A We have looked at that to some extent.  
20 There are a lot of variables and unknowns  
21 involved, but by and large we didn't think it  
22 feasible to leave the meter house there.

23 We talked about the Humboldt Street and  
24 having to have a retaining wall in the event of a  
25 seismic event. In order to establish that with

1 the meter house in its present location would be  
2 very difficult. I'm not sure how we could do  
3 that.

4 Q So are you saying from an engineering or  
5 technical point of view you're not sure that that  
6 can be accomplished?

7 A I'm not sure. There are some questions  
8 there that I can't answer at this point.

9 Q And have you done a similar study, if  
10 you will, or analysis for that as you have for  
11 moving the buildings?

12 A We have looked at it but not in the  
13 amount of detail that we did for moving the  
14 buildings, because, again, I think we sort of ran  
15 into this engineering quandary of how do you make  
16 the north wall of that building, how do you bring  
17 that up to current seismic standards, and maintain  
18 the historical integrity of the building.

19 And we really couldn't come up with a  
20 very good answer on that. And thus, we just sort  
21 of left it at that point.

22 Q If I understood the testimony to say  
23 that Mirant will have to reinforce this retaining  
24 wall for Humboldt Street anyway, according to its  
25 application or its plan to construct Unit 7?

1           A     Yes. In the event of a seismic event,  
2     if Humboldt Street's south face is not reinforced  
3     with a retaining wall or some type of seismic  
4     protection, Humboldt Street could very well  
5     collapse to the south and endanger the new Unit 7.

6           Q     And how long a stretch of Humboldt  
7     Street have you sort of studied, and do you plan  
8     to reinforce?

9           A     If you look at the existing profile of  
10    Humboldt Street and the current retaining wall,  
11    and I use retaining wall loosely there because  
12    actually you have the walls of the existing  
13    structures that, in effect, form the retaining  
14    wall, it would be approximately for that length.

15                Meaning that we would not shave or lower  
16    the elevation of Humboldt Street. We would  
17    replace the current forms of retaining wall with a  
18    new seismically acceptable wall.

19          Q     Okay. And does that include the area  
20    that's now occupied by the meter house?

21          A     Yes, it does.

22          Q     Just approximately how long is that area  
23    or length that you plan to reinforce?

24          A     I'd have to go back and look at the  
25    drawing, but it runs actually from almost the

1 guard house and the intersection of the street, I  
2 don't remember the street, to the meter house, the  
3 length of the meter house, the length of the old  
4 boiler portion of Station A, and -- pardon me, the  
5 turbine portion of Station A, and for a distance  
6 on the old boiler portion of Unit A.

7 Q And do you have a general idea of what  
8 the cost of that is estimated to be?

9 A The cost of the new seismic retaining  
10 wall, exclusive of demolition of the existing  
11 wall, is in the neighborhood of \$1.5- to \$2  
12 million.

13 Q And briefly, how is the wall going to be  
14 reinforced? What is the technical means or method  
15 that Mirant plans to use to reinforce that wall?

16 A I do have more specific information, I  
17 didn't bring it with me, regarding it. But as I  
18 recall we essentially would drive piling, once the  
19 demolition is partially completed, we would drive  
20 piling from Humboldt Street on the south end. And  
21 then use both piling and the seismically prepared  
22 pilasters, in addition to a new reinforced  
23 concrete wall along the length of the south side  
24 of Humboldt Street.

25 Q So Mirant's planning to build a whole

1 new retaining wall?

2 A In effect, yes. Yes. Because that's  
3 the only way you can really -- what's there  
4 seismically would not work.

5 Q Okay. And has -- as I understand it,  
6 one of the problems with potentially retaining or  
7 keeping the meter house is there is not enough  
8 space between the combustion turbines and Humboldt  
9 Street to allow your cranes to get in and maintain  
10 the gas turbines?

11 A That is a concern. With the footprint  
12 of the two gas turbines in parallel with the steam  
13 turbine, we feel we need a minimum of 30 feet  
14 between the north edge of the turbine building and  
15 the south edge of the retaining wall for a 35 to  
16 50-ton hydraulic crane in order to service the gas  
17 turbine.

18 Q And has Mirant studied any alternative  
19 ways to maintain the gas turbines without using  
20 that space for your crane?

21 A We did look at trying to gain access  
22 from the south side of the turbine as opposed to  
23 the north side. And this has been done  
24 generically and at other sites, as well.

25 However, with the confined north/south

1 space from Humboldt Street to 23rd Street, it  
2 really wasn't feasible for us to try and swap the  
3 maintenance to the south side. We merely trade  
4 the problem with there down to 23rd Street. Plus  
5 we would have to order special gas turbines and  
6 equipment for General Electric, which normally  
7 would have access on that side.

8 I think that probably we could get  
9 General Electric to do that. But with the other  
10 problems, as well, we didn't feel that that was  
11 the best answer.

12 Q And looking at your revised exhibit  
13 number 72, or your new exhibit number 72, I notice  
14 that in the east side there is an access road that  
15 seems to come in on different sides of these gas  
16 turbines. Did you analyze the potential for using  
17 that access road for your cranes in order to  
18 maintain the turbines?

19 MR. CARROLL: Point of clarification.  
20 Mr. Westerfield mentioned exhibit 72, which I  
21 think is the revised cost estimate, is that --

22 MR. WESTERFIELD: Oh, I'm sorry.

23 MR. CARROLL: -- correct?

24 HEARING OFFICER VALKOSKY: That is  
25 correct.

1 MR. WESTERFIELD: My mistake.

2 MR. CARROLL: Okay, so we're referring  
3 to the site plan attached to the prepared  
4 testimony?

5 MR. WESTERFIELD: That's right, yeah.  
6 Exhibit A, I think attached to your testimony,  
7 correct?

8 MR. CARROLL: We were in the process of  
9 getting that in front of us. Can we ask you to  
10 repeat the question.

11 BY MR. WESTERFIELD:

12 Q All right, looking at exhibit A, now,  
13 your testimony, there seems to be an access road  
14 with several spurs that grant access to the  
15 turbines from the east.

16 Did you do an in-depth analysis of the  
17 potential for using that road for your crane to  
18 maintain the turbines?

19 A The problem with the east road is that  
20 it is so far removed from the gas turbine. The  
21 east road basically bounds the east side of the  
22 stacks. And what you really want to get to with  
23 your crane is the gas turbine.

24 So, if you're moving from east to west  
25 you have the stack, you have the heat recovery

1 steam generator, and then you have the gas turbine  
2 unit.

3 So the gas turbine unit is fairly far  
4 west from the stack, relatively speaking. And  
5 what we're wanting to do is be able to back a  
6 crane in along the north edge of the gas turbine  
7 and also back up a flatbed trailer truck. And  
8 then you actually lift the gas turbine out, put it  
9 on the truck and drive it out to the east.

10 Q All right.

11 A The other problem with accessing that  
12 from the south is that we run into a problem, you  
13 can see a pipe bridge that carries all of the  
14 steam piping and other utilities from the north  
15 back down to the gas turbine. And that pipe  
16 bridge would have introduced real problems for us  
17 trying to access the gas turbine from the south  
18 side.

19 So that's a little more visual  
20 explanation as to why we're having trouble on the  
21 south side.

22 Q Now, help me out in one other detail.  
23 Assuming, of course, as you mention, that your  
24 crane is going to access the gas turbines from the  
25 north side, you've got two turbines side by side.



1           A     That's correct.

2           Q     You have a north and a south turbine?

3           A     Correct.

4           Q     Is this crane able to do what it needs  
5     to do from the north on the south turbine?

6           A     Yes, it will.  You'll see a shaded area  
7     there, and the reason for that is we have designed  
8     access, by and large, from the north side on both  
9     of these turbines.

10                There are ancillary equipment associated  
11     with the gas turbines that, by design, stays on  
12     the south side of each turbine, which prevents us  
13     from having clear access from the south.  We have  
14     what's a PECC which is the main control electrical  
15     portion of the gas turbine and other ancillaries  
16     in that south side.

17                That's why I was saying we could talk to  
18     GE and flip all of those to the other side  
19     potentially.  But then we run into trouble with  
20     the pipe bridge.  This way we only really have the  
21     pipe bridge to worry about with the south gas  
22     turbine.

23           Q     And what is the reach of the crane to  
24     the south turbine in terms of feet?

25           A     I'll have to go back and look at that,

1 but I think we're looking at 45 feet, something  
2 along those lines, is the radius.

3 Q Is the radius of the crane?

4 A For that particular, I'll have to go  
5 back. But I think it's in that vicinity, probably  
6 plus or minus ten feet. So the time you got the  
7 outriggers out, those type of things.

8 MR. WESTERFIELD: Fine, that's all the  
9 questions I have.

10 HEARING OFFICER VALKOSKY: Ms. Minor.

11 CROSS-EXAMINATION

12 BY MS. MINOR:

13 Q Good morning, Mr. Stone.

14 A Good morning.

15 Q Just a few questions. What is the  
16 actual size of the Potrero site? Do you know  
17 the --

18 A I don't remember off the top of my head.  
19 I'd have to go back and look at the testimony.

20 Q Can you help me, are we talking about 10  
21 acres, 15 acres, 20 acres?

22 A I don't remember.

23 Q No? Okay. Do you recall how this  
24 Potrero site compares with other urban power plant  
25 sites that are owned by Mirant?

1           A     In what respect?

2           Q     Is it smaller?  Is it larger?

3           A     I think it's fair to say that we have  
4     had one more confining site than Potrero at our  
5     Kendall Station in Cambridge, Massachusetts.  
6     However, there we only put in a heat recovery  
7     steam generator and a gas turbine.  We repowered  
8     the existing steam turbines in an existing  
9     facility.  And there was only one HRSG and one gas  
10    turbine.

11                So it's a little bit different  
12    application, but as far as the pure congestion and  
13    difficulty, it's probably a little more difficult  
14    than Potrero.

15          Q     The Massachusetts?

16          A     The Massachusetts facility is probably a  
17    little more difficult than this one here.

18          Q     And because this space is more  
19    constrained?

20          A     Because -- one of the primary reasons  
21    was because the space at Kendall is more  
22    constrained than Potrero.

23          Q     Any other reason?

24          A     Not in the context of your question, no.

25          Q     In what context?

1           A     I think what you're asking for is the  
2     relationship between the difficulty of  
3     construction and the plant layout, what's there.

4           Q     That's correct.

5           A     Okay, so in that context, yes.

6           Q     Okay. When you are looking at a  
7     combined cycle plant, is there a minimum footprint  
8     that is necessary for Mirant to conceptually  
9     believe that a combined cycle plant, you've got  
10    adequate footprint for a combined cycle plant?

11          A     We have a standard and that standard  
12    generally is that we like 20 acres, and then  
13    another 20 acres for construction laydown.

14                Generally for a combined cycle plant  
15    you'd like -- your work at maximum efficiency with  
16    the 40-acre footprint.

17                I really become concerned when we're  
18    looking at what I'll call an open footprint of  
19    less than ten acres. You really begin to incur  
20    some difficulties, even moreso with a brownfield  
21    site as opposed to a greenfield site.

22          Q     Um-hum. Now is the Potrero site less  
23    than ten acres?

24          A     I believe it is, but I would still like  
25    to go back and check.

1           Q     Looking at attachment A to your  
2     testimony, which is exhibit 65, there are three  
3     fuel tanks that are depicted. There has been  
4     previous testimony that two of these fuels tanks  
5     is -- two will be removed. Which of the two fuel  
6     tanks? Which two of the three fuel tanks will be  
7     removed?

8           A     The middle fuel tank supports the jet  
9     engines, the Pratt-Whitneys Units 4, 5, and 6.

10          Q     Okay.

11          A     Now, I'm not entirely privy to the  
12     previous testimony about the other two tanks. I  
13     do know that our business people have been in  
14     discussion with the ISO to remove the dual fuel  
15     capability of Unit 3. To the best of my knowledge  
16     that is not a done deal as yet.

17          Q     Okay. Have you looked at whether --  
18     restate the question. If fuel tanks 4 and 3 were  
19     removed, have you looked at whether there would be  
20     adequate space for the relocation of either the  
21     meter house or the compressor house into the areas  
22     where those tanks are located?

23          A     I've looked at many things, and have  
24     been a large proponent, myself, of trying to  
25     remove those tanks, more for selfish reasons due

1 to construction.

2 Again, depending upon the priorities of  
3 what the project ends up doing, I'm sort of the  
4 tail end of the dog here. Once the footprint of  
5 the new construction is determined, depending upon  
6 the cooling methodology or what. We again  
7 prepared an estimate based upon relocating them  
8 onsite. We didn't necessarily say they'd go where  
9 the fuel tanks are; we didn't say they'd go  
10 anyplace. But, we prepared basically what would  
11 it take to move them onsite. We prepared what  
12 would it take to move them offsite.

13 MR. CARROLL: If I may, in an effort to  
14 perhaps refresh the recollection of all of the  
15 parties and witnesses, there was a previously  
16 admitted exhibit, exhibit 46, which did look at  
17 relocation of the meter house and the compressor  
18 house to the location of tank three.

19 HEARING OFFICER VALKOSKY: Thank you,  
20 Mr. Carroll.

21 MS. MINOR: Mr. Carroll, do you happen  
22 to have exhibit 46 with you?

23 MR. CARROLL: I do.

24 (Pause.)

25 MS. MINOR: Thank you.

1 BY MS. MINOR:

2 Q Mr. Stone, I am passing you what Mr.  
3 Carroll has identified as exhibit 46 that was  
4 previously admitted into the record.

5 Are you familiar with this exhibit?

6 A Yes, ma'am, I am.

7 Q Did you prepare this exhibit?

8 A I was part of a group.

9 MR. CARROLL: This exhibit was sponsored  
10 by Mr. Stone on July 22nd.

11 MS. MINOR: Oh, it was sponsored.

12 MR. CARROLL: Yes, it was.

13 MS. MINOR: Thank you.

14 BY MS. MINOR:

15 Q I'm sorry, I'm going to have to stand  
16 here to be closer to your mike. As a part of the  
17 preparation of exhibit 46 did you look at  
18 relocation of the meter house and the compressor  
19 house to the areas that are in addition to fuel  
20 tank 3, which is the far right, also moving one of  
21 them to the area of fuel tank 4, which is the far  
22 left?

23 A Did we look at moving one of the  
24 buildings to the fuel tank 4?

25 Q Right.

1           A     I believe that we did consider that,  
2     yes.

3           Q     Is that shown on exhibit 46?

4           A     It is not.

5           Q     Do you recall what the results were?

6           A     Either one or the other, again the  
7     footprint fits the area. There are complications  
8     due to underground utilities and other issues  
9     involved, on a pure footprint basis, as you can  
10    see.

11          Q     Does Mirant have a conceptual report or  
12    an engineering design that would enable us to  
13    understand more specifically what you studied in  
14    relationship to moving the meter house and the  
15    compressor house on the site?

16          A     Based upon discussions that we had with  
17    a couple of contractors and their analysis and  
18    ours, when we developed the cost estimate here it  
19    provides a basic framework of what we thought it  
20    would take to relocate the buildings onsite. But  
21    we did not include a narrative description.

22          Q     Is a narrative description available?

23          A     Not readily. We have some elements of  
24    it that are contained in reports from the  
25    contractors to us, although frankly those focus



1 more with offsite relocation than onsite.

2 MR. CARROLL: I would just point out  
3 that Mr. Stone did provide a narrative description  
4 of the steps that would be taken to relocate the  
5 buildings on July 22nd when the original cost  
6 estimate was introduced. And that is in the  
7 transcript of the proceedings.

8 There was also extensive discussion at  
9 that point about the feasibility of relocating the  
10 meter house and the compressor house to the  
11 location of tank 3 at the July 22nd hearing.

12 MS. MINOR: I'm actually done; I don't  
13 have any further questions. Thank you.

14 HEARING OFFICER VALKOSKY: Thank you,  
15 Ms. Minor.

16 Mr. Ramo.

17 MR. RAMO: No questions.

18 HEARING OFFICER VALKOSKY: Any redirect,  
19 Mr. Carroll?

20 MR. CARROLL: Just one question.

21 REDIRECT EXAMINATION

22 BY MR. CARROLL:

23 Q Mr. Stone, in response to a question  
24 from Mr. Valkosky you indicated that financial  
25 considerations were one of the bases upon which

1       you determined that relocation of the meter house  
2       and the compressor house was not feasible.

3               Is the absence of an identified  
4       acceptable location, either onsite or offsite,  
5       also one of the bases upon which you reached that  
6       conclusion?

7           A     Yes, absolutely.

8               MR. CARROLL:  Thank you.  Nothing  
9       further.

10           HEARING OFFICER VALKOSKY:  Recross?

11           MR. WESTERFIELD:  No recross.

12           HEARING OFFICER VALKOSKY:  Ms. Minor?

13           MS. MINOR:  No.

14           MR. GARCIA:  Could we see the site  
15       picture that you were looking at?

16           MR. STONE:  Yes.

17           (Pause.)

18           HEARING OFFICER VALKOSKY:  Okay, Mr.  
19       Carroll, move your exhibits?

20           MR. CARROLL:  Yes, at this time we'd  
21       like to move the admission of exhibit 65, which is  
22       the prepared testimony, including the revised site  
23       plan, which is attached thereto, showing the meter  
24       house and the compressor house.  And also exhibit  
25       72, which is the replacement cost estimate.

1 HEARING OFFICER VALKOSKY: Okay. Let me  
2 just clarify this once again. Maybe the simplest  
3 way is are you withdrawing exhibit 47?

4 MR. CARROLL: Yes, at this time we would  
5 withdraw exhibit 47.

6 HEARING OFFICER VALKOSKY: Replaced with  
7 exhibit 72. Is there any objection to admission  
8 of exhibits 65 and 72?

9 MR. WESTERFIELD: No.

10 MR. RAMO: No objection.

11 MS. MINOR: No.

12 HEARING OFFICER VALKOSKY: No  
13 objections, okay. Exhibit 65 and exhibit 72 are  
14 entered. And exhibit 47 is withdrawn.

15 Thank you. Anything further on cultural  
16 resources, Mr. Carroll?

17 MR. CARROLL: No, thank you.

18 HEARING OFFICER VALKOSKY: Mr.  
19 Westerfield.

20 MR. WESTERFIELD: We have one witness,  
21 thank you, Mr. Valkosky. We would like to recall  
22 Gary Reinoehl, please.

23 HEARING OFFICER VALKOSKY: Swear the  
24 witness, please.

25 //

1       Whereupon,

2                               GARY REINOEHL

3       was called as a witness herein, and after first  
4       having been duly sworn, was examined and testified  
5       as follows:

6                               DIRECT EXAMINATION

7       BY MR. WESTERFIELD:

8               Q       Mr. Reinoehl, --

9                       PRESIDING MEMBER PERNELL:  Mr.  
10       Westerfield, before you begin, let the record  
11       reflect that Mr. Smith, who is Advisor to Chairman  
12       Keese, has joined us at the dais.

13       BY MR. WESTERFIELD:

14              Q       Mr. Reinoehl, could you please state  
15       your position with the California Energy  
16       Commission?

17              A       I'm a Planner.  I do the cultural  
18       resource review for proposed applications for  
19       certification to determine the impacts of the  
20       proposed projects.

21              Q       Have your qualifications changed since  
22       the last time you testified in this matter?

23              A       No, they have not.

24              Q       And, again, what role have you played in  
25       the topic of cultural resources?

1           A     Well, my role has been one in reviewing  
2     everything the applicant has provided. We also  
3     had a consultant working for us on the project  
4     also doing analysis of the impacts, which I  
5     coordinated with them.

6           I also coordinated with an architectural  
7     historian with Caltrans; that was Gloria Scott,  
8     who provided testimony. And have provided  
9     additional supplemental testimony.

10          Q     Okay. So it sounds like you did prepare  
11     the supplemental testimony on cultural resources?

12          A     Yes, I did.

13          Q     And is it true and accurate to the best  
14     of your knowledge?

15          A     Yes, it is.

16          Q     Is it still your testimony today?

17          A     Yes, it is.

18          Q     Would you summarize it, please, for us.

19          A     I have stated that moving the buildings  
20     is not feasible because of three factors. One,  
21     the vacant land owned by PG&E that is just north  
22     of the project site is not available.

23                 The Port of San Francisco has stated  
24     they do not want the buildings move to the Pier 70  
25     area. And the applicant has testified that room

1 does not exist on their property to relocate the  
2 buildings and build the project.

3 Demolition of those buildings will  
4 create a negative impact on historical resources  
5 that cannot be mitigated to less than significant.

6 Q And could you summarize also, please,  
7 the new proposed conditions of certification?

8 A Condition 17 requires the project owner  
9 to prepare a video that documents the meter house  
10 and the compressor house and the role of those  
11 buildings in the gas manufacturing and  
12 distribution process in San Francisco.

13 That would be a project that would be  
14 available to the public for their education, to  
15 relate to them what is being lost in this project,  
16 if approved.

17 Cul-18 merely had one change in it, and  
18 that was adding a timeline to the condition. And  
19 that was in saying that the kiosk design  
20 description proposed graphics would be provided to  
21 the CPM for review and approval prior to the start  
22 of commercial operation. That was the addition to  
23 this, prior to the start of commercial operation.

24 Then Cultural-19 requires the project  
25 owner to request of the City and Pier 70 and San

1 Francisco Heritage if they want any of these  
2 materials of the buildings that are to be  
3 demolished for rehabilitation of other buildings,  
4 and that would be offered to those entities at no  
5 cost.

6 And then if there is on interest that  
7 within 60 that then the project owner may dispose  
8 of those materials.

9 Q All right, thank you. Mr. Reinoehl,  
10 have you read the testimony of Denise Bradley, the  
11 prepared written testimony?

12 A Yes, I have.

13 Q Is there anything in that testimony that  
14 you disagree with?

15 A Yes, there is. Ms. Bradley stated that  
16 the resources physical proximity in relationship  
17 to the site of the former gas storage tank is a  
18 critical aspect of the integrity of the location  
19 setting and association.

20 On January 31st of 2001 the applicant  
21 provided an amendment to the application for  
22 certification that was the cultural resources  
23 report on the architectural and historical  
24 resources for the project.

25 In that document they stated that the

1 meter house and compressor house appear to be  
2 individually significant under California Register  
3 criterion 1 because they are likely the only  
4 extant buildings remaining in the PG&E system  
5 associated with the pre-1930 gas manufacturing  
6 period.

7 Now, the gas tank is no longer there.  
8 There is a foundation at ground level that is all  
9 that's visible of that. And, in fact, as said in  
10 their first assessment, these are the only two  
11 extant buildings. A relationship to a building  
12 that no longer exists except for the foundation is  
13 not a critical aspect of the integrity.

14 Q Why do you disagree with that statement?

15 A It would have little bearing on -- well,  
16 one being eligibility of those buildings is not  
17 dependent upon the former gas tank being there.  
18 And if they were moved it's not -- it would not  
19 significantly change the integrity association and  
20 setting, because that building, the gas storage  
21 tank no longer exists. There is merely a  
22 foundation. It would not change the fact that  
23 these are the two extant buildings.

24 MR. WESTERFIELD: Thank you very much.

25 We have no more questions on direct.



1 HEARING OFFICER VALKOSKY: Referring to  
2 condition 17, would you explain to me the meaning  
3 of the clause "in an entertaining way", in  
4 cultural-17, second sentence.

5 I mean are we talking Ken Burns'  
6 documentary, or are we talking Dave Mundstock?

7 (Laughter.)

8 MR. WESTERFIELD: Do you understand the  
9 question?

10 (Laughter.)

11 MR. REINOEHL: I haven't seen any of Mr.  
12 Mundstock's presentations, so I'm not familiar  
13 with that aspect of your comment.

14 But to best express what this means, I'm  
15 sure you've seen some documentaries that were  
16 probably not very entertaining and did not hold  
17 your interest, not that the subject matter wasn't  
18 interesting, but the way in which it was presented  
19 was less than dramatic or entertaining.

20 And this is a statement asking that they  
21 do this in a way that provides the general viewer  
22 with some value that tends to hold them because of  
23 the importance of these particular buildings, so  
24 that they would be inclined to watch such a video,  
25 as opposed to it being a waste of effort.

1           HEARING OFFICER VALKOSKY: And in the  
2       real world who is the final arbiter of whether or  
3       not it meets those criteria?

4           I mean I understand that this goes to  
5       compliance, so --

6           MR. REINOEHL: Right.

7           HEARING OFFICER VALKOSKY: And then do  
8       we have anyone capable of making that kind of  
9       decision, or credibly making that kind of  
10      decision?

11          MR. REINOEHL: Well, generally these  
12      items come to me since they are a cultural  
13      condition. I've seen a number of documentaries  
14      that I thought were not very entertaining, and  
15      I've seen some that I thought were exceptionally  
16      entertaining.

17          In reviewing the scripts I would try to  
18      make any suggestions possible, and the graphics  
19      that they're providing, to assist in making it of  
20      more interest, as opposed to something that is not  
21      very worthwhile.

22          Now, as to whether I'm an arbiter in  
23      what's entertaining or not, I don't claim to be  
24      that.

25          HEARING OFFICER VALKOSKY: Okay, --

1           PRESIDING MEMBER PERNELL: But you're  
2 suggesting that you would want to review the  
3 script before the documentary is produced?

4           MR. REINOEHL: That is if the  
5 verification does require them to provide a draft  
6 of the story board or script, and/or script of the  
7 video for review and approval, yes.

8           PRESIDING MEMBER PERNELL: Okay.

9           HEARING OFFICER VALKOSKY: Are you --  
10 I'm sorry, go ahead.

11          PRESIDING MEMBER PERNELL: Well, just my  
12 recollection tells me that staff agreed with all  
13 of the conditions.

14          MR. CARROLL: Yes, applicant did.

15          PRESIDING MEMBER PERNELL: Applicant,  
16 I'm sorry. Certainly staff agrees.

17          HEARING OFFICER VALKOSKY: Do you agree  
18 with the position of applicant providing some  
19 funding for the rehabilitation of building 113  
20 would at least partially mitigate any loss of the  
21 meter house and the compressor house?

22          MR. REINOEHL: In my professional  
23 opinion, no, it would not. Those two buildings  
24 are individually eligible. It is their demolition  
25 that's the significant impact. Providing funding

1 for the rehab of an unrelated building is not a  
2 mitigation for the demolition of those buildings.

3 HEARING OFFICER VALKOSKY: Okay.

4 MR. REINOEHL: I would encourage the  
5 applicant to work with the City and County of San  
6 Francisco if they wish to provide some funding; I  
7 think that would be a wonderful thing, but it's  
8 not a required mitigation.

9 HEARING OFFICER VALKOSKY: Okay, thank  
10 you. Cross?

11 MR. CARROLL: No cross-examination.

12 HEARING OFFICER VALKOSKY: Ms. Minor?

13 MS. MINOR: Yes.

14 CROSS-EXAMINATION

15 BY MS. MINOR:

16 Q Good morning, -- it's still morning.

17 A Yes, it is.

18 Q Your testimony, your written testimony  
19 indicates that you spoke with someone at the Port  
20 who indicated that the Port was not interested in  
21 having the buildings moved to the Pier 70 area.

22 Do you recall whom you spoke with at the  
23 Port?

24 A Mr. Mark Paez.

25 Q During the conversation with Mark Paez

1 of the San Francisco Port, do you recall what  
2 specific buildings you were talking about  
3 potentially moving to the Pier 70 area?

4 A The meter house and the compressor  
5 house.

6 Q Did you discuss any additional  
7 buildings?

8 A No.

9 Q At the time you contacted the Port to  
10 discuss with it -- at the time you contacted the  
11 Port did you make a -- had you made a  
12 determination as to whether once moved, the meter  
13 house and the compressor house would maintain  
14 their eligibility as historic listed resources?

15 Do you understand the question?

16 A Yes, I do. In my professional opinion I  
17 believe if they were moved and retained the same  
18 association they currently have, and were placed  
19 on the Port's property near the edge of their  
20 property close to, as close as possible to the  
21 current location, that that would -- I'm sorry,  
22 I've lost my train of thought, if you could repeat  
23 the question?

24 Q Yeah. The question is whether you had  
25 determined prior to talking to the Port whether

1       once moved the meter house and the compressor  
2       house would maintain their status as eligible  
3       resources.

4           A     I believe they would, and yes, I believe  
5       at that time that was our intent, is that in  
6       moving them together that they would retain their  
7       eligibility.

8           Q     Is it correct that once moved a new  
9       assessment must be made as to eligibility?

10          A     It is always best to do that.

11          Q     Would it be required? The reassessment  
12       of eligibility.

13          A     I don't believe in previous conditions  
14       that were written when we assumed that the  
15       buildings were going to be moved that there was a  
16       requirement to reevaluate the buildings.

17          Q     Would the State Office of Historic  
18       Preservation require such a reevaluation once  
19       buildings are moved?

20          A     The Office of Historic Preservation has  
21       no authority over this project. There's no  
22       involvement that would require them to make any  
23       consideration regarding these buildings and  
24       reevaluating them.

25          Q     During your discussions with Mark Paez

1 of the Port did you discuss with him whether there  
2 were funds or resources available if, in fact, the  
3 Port were interested in accepting these buildings?

4 A I do not remember any discussion of  
5 that.

6 Q Do you have an opinion as to whether  
7 funds, if the Port were to accept the meter house  
8 and compressor house, that funds should be  
9 available for acquiring a site on Pier 70 for the  
10 placement of these buildings?

11 A I would think if they were moved to any  
12 new location, if the property were private  
13 property, many of the owners would want the  
14 property purchased. And I would think that the  
15 City and County of San Francisco and the Port may  
16 also wish some kind of financial reimbursement for  
17 that.

18 It was never discussed. Or at least to  
19 the best of my recollection it was not discussed.

20 Q Do you recall if there were any  
21 discussion as to whether financial resources would  
22 be available for the seismic requirements if the  
23 buildings were relocated into the Pier 70 area?

24 A I don't remember a discussion of that.

25 Q Your opinion that there is not adequate

1 space on the property, on the Potrero property, to  
2 relocate the buildings, and to build the proposed  
3 Unit 7 project, that opinion is based upon the  
4 current design as shown on exhibit A to Mr.  
5 Stone's testimony?

6 A That is correct.

7 Q If you were to learn that the project  
8 could be redesigned, would you want an opportunity  
9 to reconsider that opinion?

10 A Yes, I would.

11 MS. MINOR: I have no further questions,  
12 thank you.

13 HEARING OFFICER VALKOSKY: Mr. Ramo?

14 MR. RAMO: No questions.

15 HEARING OFFICER VALKOSKY: Any redirect,  
16 Mr. Westerfield?

17 MR. WESTERFIELD: No redirect.

18 HEARING OFFICER VALKOSKY: Thank you,  
19 you're excused.

20 Ms. Minor.

21 MR. WESTERFIELD: Mr. Valkosky, --

22 HEARING OFFICER VALKOSKY: I'm sorry,  
23 yes, your exhibit.

24 MR. WESTERFIELD: -- could we move an  
25 exhibit into the record?



1 HEARING OFFICER VALKOSKY: Yes.

2 MR. WESTERFIELD: I believe it's exhibit  
3 66.

4 HEARING OFFICER VALKOSKY: 66, that's  
5 correct. Is there objection to the admission of  
6 exhibit 66?

7 MR. CARROLL: No.

8 HEARING OFFICER VALKOSKY: No  
9 objections, 66 is admitted.

10 MR. WESTERFIELD: Thank you.

11 HEARING OFFICER VALKOSKY: Ms. Minor.

12 MS. MINOR: The City's cultural  
13 resources witness is Mark Paez, ready to be sworn  
14 in.  
15 Whereupon,

16 MARK PAEZ  
17 was called as a witness herein, and after first  
18 having been duly sworn, was examined and testified  
19 as follows:

20 DIRECT EXAMINATION

21 BY MS. MINOR:

22 Q Would you please state your name,  
23 professional qualifications and educational  
24 background for the record.

25 A Mark Paez. I am the Port of San

1 Francisco's Historic Resource Coordinator. Prior  
2 to that I worked for the City and County Planning  
3 Department as the primary staff to the Landmarks  
4 Preservation Advisory Board.

5 Prior to that, the City of Berkeley, as  
6 their primary historic resource specialist. And  
7 then prior to that the City of Sausalito as a  
8 planning technician.

9 I hold a bachelors degree from CalState  
10 University Sonoma.

11 Q Did you previously submit written  
12 testimony in this matter?

13 A No, I did not.

14 Q Did you submit testimony that's dated  
15 November 27, 2002 in this matter?

16 A Oh, I'm sorry, I misunderstood the  
17 question. Yes, the answer is yes, I did. Sorry.

18 Q Do you have any changes to make in that  
19 prefiled written testimony?

20 A No, I do not.

21 Q Would you clarify the purpose of your  
22 testimony today?

23 A The purpose of my testimony today is to  
24 respond to the Commission's outstanding questions  
25 that were raised in the July hearing on cultural

1 resources.

2 Q Were you in the hearing room during the  
3 cultural resources evidentiary hearing July 22nd  
4 and 23rd?

5 A Yes, I was.

6 Q Are you familiar with the written  
7 testimony and the transcript from July 22nd and  
8 23rd?

9 A Yes, I am.

10 Q Would you please clarify the current  
11 status of the designation of Pier 70 as a historic  
12 district?

13 A Yes. The Port of San Francisco in 1994  
14 prepared a waterfront land use plan that included  
15 all of its properties on the eastern side of the  
16 City. That waterfront land use plan required that  
17 there be special analyses of historic resources  
18 throughout those properties.

19 There were two surveys that were done.  
20 The first by Carey & Company, historic resource  
21 consultants, that analyzed resources at Pier 70  
22 and the Port's properties in the southern  
23 waterfront.

24 That survey did find that there was a  
25 Pier 70 area historic district, many of the

1 resources being eligible as contributors to that  
2 district. And specifically buildings 113 and  
3 those on the block of 20th Street near Illinois as  
4 being individually eligible resources.

5 Then that was followed with another  
6 resource survey by a group known as Architectural  
7 Resources Group. And what they did was  
8 essentially revisit that earlier survey; validated  
9 that the determinations of eligibility were  
10 correct; and set up a database for the Port to use  
11 as a reference document in preparing the  
12 waterfront land use plan.

13 And out of that came the development of  
14 the plan policies; its established plan policy  
15 that study further and possible nomination of this  
16 historic district at Pier 70, as well as pursuing  
17 the individual listings of the buildings along  
18 20th Street.

19 In 1989 FEMA and the Port did enter into  
20 a section 106 consultation. The Port was seeking  
21 funds for some seismic damage that had occurred to  
22 buildings at Pier 70. And that process required  
23 that the State Office of Historic Preservation  
24 consult, as well, and make determinations of  
25 eligibility.

1           And they did, and in fact revisited  
2       those earlier studies by Carey & Company  
3       Architectural Resources Group and the base of  
4       information that the Port had prepared, and agreed  
5       that, in fact, there was a historic district. And  
6       a number of resources that were individually  
7       eligible.

8           Most recently the Port has been involved  
9       with the planning department in the preparation of  
10      the central waterfront cultural resource survey.  
11      Again, because we had developed such an extensive  
12      base of information, the planning department,  
13      rather than sort of reinventing the wheel, wanted  
14      to start looking at that existing information.

15           As in previous cases, validated that and  
16      supplemented it with new information to the extent  
17      that that was necessary.

18           So all of that prior work has been  
19      incorporated into the cultural resource survey of  
20      the City. And, again, their findings have  
21      reaffirmed all those prior assessments that, in  
22      fact, that there is a Pier 70 area that is an  
23      eligible historic district, as well as a number of  
24      resources that are individually eligible.

25           The Port also has created an area at

1 20th and Illinois Street that's called mixed-use  
2 opportunity area. It does include some of those  
3 historic resources that are included in those  
4 surveys. And what was being sought was a public/  
5 private partnership.

6 The Port put out a request for proposal  
7 seeking a developer who would enter into an  
8 exclusive right to negotiate to build a mixed-use  
9 project there. And as part of that to  
10 rehabilitate a number of those historic resources  
11 to the Secretary of Interior standards.

12 The RFP process unfortunately was  
13 unsuccessful, largely because of the downturn in  
14 the real estate market and our timing. But in  
15 addition, there were a number of questions about  
16 the feasibility of number of aspects of the  
17 project. And as a result the Port did conclude  
18 that process and terminate its exclusive right to  
19 negotiate with the private partnership.

20 However, in our planning activities the  
21 Port recognizes the area, going back to that  
22 earlier policy under the waterfront land use plan,  
23 we recognize the area as being an eligible  
24 district in our planning activities, in our  
25 interim leasing and use of the area. It's treated

1 as such.

2 In addition, that gets factored into our  
3 environmental review of any projects or issuance  
4 of permits in the area, as well.

5 Q From the previous hearings it was also a  
6 request to clarify the status of the determination  
7 of the Dogpatch as a historic district. Where  
8 does that stand?

9 A It's my understanding that under article  
10 of the planning code, which is the enabling  
11 legislation for initiating local landmarks and  
12 historic districts, that Supervisor Maxwell had  
13 introduced an ordinance. It had been drafted by  
14 the City Attorney's Office, and was before the  
15 Landmarks Board for review and the City Planning  
16 Commission for review.

17 Q The last survey that we were asked to  
18 clarify today is the status of the central  
19 waterfront survey. And I believe you brought  
20 extra copies with you today for purposes of  
21 distribution and admission into the record?

22 A Yes, I did.

23 Q What is the status of the central  
24 waterfront?

25 A Oh, I'm sorry. The status of the survey

1 is that it was -- the work was completed and it  
2 was reviewed and approved by the Landmarks Board,  
3 their recommending body, to the City Planning  
4 Commission.

5 The Planning Commission, they endorsed  
6 the survey, they did not adopt it, save for their  
7 couple properties where there was owner objection.  
8 Therefore, they're not at the point where they can  
9 adopt the survey in total. But they did endorse  
10 it as a resolution. And that's been introduced as  
11 evidence today, documenting that fact.

12 Q Is that exhibit B that's appended to  
13 your testimony as the motion from the Planning  
14 Commission endorsing the central waterfront  
15 survey?

16 A That's correct.

17 Q During the cultural resources  
18 evidentiary hearing in July witnesses for the City  
19 and County of San Francisco indicated that there  
20 should be a Potrero Point historic district.

21 Can you clarify what, if anything, has  
22 occurred with respect to this proposed district  
23 since the July testimony?

24 A Yes. Since that time the Port convened  
25 a meeting of its Pier 70 advisory group. And that



1 body has advised the Port on historic  
2 preservation, as well as all planning matters for  
3 the Pier 70 area.

4 And they received a presentation by Dr.  
5 Groth, who testified at previous CEC hearings on  
6 this issue. And he covered some of the same  
7 elements of his presentation in his testimony.

8 The Pier 80 advisory group, as a result,  
9 has prepared a letter asking that that information  
10 be provided to the City's landmark preservation  
11 advisory board. And that they consider  
12 incorporating that new information into the  
13 cultural resource survey of the planning  
14 department.

15 Q When you say that new information can  
16 you be more specific about the information that  
17 the Pier 80 advisory committee is requesting the  
18 landmarks board to include?

19 A They recommended that the expert  
20 testimony, the City's three preservation  
21 witnesses, be forwarded to the landmarks board and  
22 incorporated into the survey.

23 Q And what survey is that?

24 A The central waterfront cultural resource  
25 survey.

1           Q     At the July hearing the City was  
2 requested to be prepared when these hearings  
3 continued to have an estimate of the cost to  
4 rehabilitate building 113 on Pier 70 to the  
5 Secretary of Interior standards for seismic rehab  
6 of historic resources.

7                     Do you have such an estimate? And what  
8 is that estimate?

9           A     Yes, the Port did hire an independent  
10 structural engineer to do an assessment of  
11 building 113. Their report, titled, seismic  
12 evaluation and concept level retrofit design has  
13 been completed and estimates of the cost would be  
14 somewhere in the area of \$7 million to retrofit  
15 the building to Secretary of Interior standards.

16           Q     Does that complete your testimony?

17           A     Yes.

18                     MS. MINOR: Thank you. The witness is  
19 tendered for cross-examination.

20                     HEARING OFFICER VALKOSKY: Thank you,  
21 Ms. Minor.

22                     Mr. Paez, is there land available or  
23 space available on Pier 70 for the relocation of  
24 the meter house and the compressor house?

25                     MR. PAEZ: There are areas potentially

1       that could, that are open land areas where there's  
2       a low level of development or use. But currently  
3       all of the property under the Port's jurisdiction  
4       is either in maritime reserve or leased to  
5       tenants.

6               The Port is an enterprise agency and is  
7       required to generate revenue, support the public  
8       trust. And therefore, all of the activities there  
9       have to be self supporting.

10              However, there are open areas that, you  
11       know, if one was to approach the Port and ask for,  
12       let's say, a lease of property for use to support  
13       one of these buildings, then potentially something  
14       could be -- an area could be identified.

15              HEARING OFFICER VALKOSKY: Okay. What  
16       is the Port's preference? I'll give you two  
17       choices. One, to have the meter house and/or the  
18       compressor house relocated. Or, two, to have a  
19       contribution, financial contribution toward the  
20       rehab of building 113?

21              MR. PAEZ: The Port, being part of the  
22       larger City, you know, has stated earlier in the  
23       process that the transfer of funds to retrofit  
24       building 113 was far superior in terms of its  
25       mitigation, degree of mitigation, and the

1 resulting public benefit.

2 HEARING OFFICER VALKOSKY: Okay, and of  
3 the approximate \$7.3 million identified in your  
4 study, what dollar figure? I mean ideally the  
5 Port, I'm sure, would like to have applicant remit  
6 the whole \$7.3 million. Assuming that's not  
7 possible, what would be an acceptable figure in  
8 your opinion?

9 MR. PAEZ: I'm not prepare to answer  
10 that question. I mean I think that any  
11 contribution would benefit the Port and would lead  
12 towards the eventual rehabilitation of that  
13 structure. But, you know, I don't have a figure  
14 in mind.

15 HEARING OFFICER VALKOSKY: Okay, thank  
16 you. Mr. Carroll.

17 MR. CARROLL: No cross-examination.

18 PRESIDING MEMBER PERNELL: Just a follow  
19 up on Mr. Valkosky's questions. Has the Port  
20 secured any funds to rehab building 113?

21 MR. PAEZ: Part of the Port's  
22 development model is private and public  
23 partnerships. And although, you know, in the  
24 current real estate market Pier 70, you know, has  
25 its issues and constraints, we're still in the

1 process of exploring with the National Park  
2 Service their potential interest in building 113  
3 for a museum, a consortium museum facility and  
4 archive.

5 So it's through that type of mechanism  
6 that we would be looking to our development  
7 partner to undertake the rehabilitation.

8 We have a number of successful projects  
9 like that in the northern waterfront where private  
10 developers have joined with us and actually taken  
11 the 20 percent federal rehabilitation tax credit.  
12 And that that has made it feasible for them to  
13 undertake some of these rehabilitation projects  
14 that the Port could not, on its own, fund.

15 So we're hopeful that we will be able  
16 to, you know, enter into such an agreement with a  
17 private party.

18 PRESIDING MEMBER PERNELL: Okay.

19 HEARING OFFICER VALKOSKY: Final  
20 question. Do you have any opinion on the  
21 acceptability of the conditions proposed by staff  
22 in the supplemental testimony, conditions 17, 18  
23 and 19 of exhibit 66?

24 MR. PAEZ: I think that the additional  
25 conditions are a definite improvement over the

1 earlier staff recommendation, but I think they  
2 fall short of the type of mitigation that these  
3 significant resources deserve.

4 HEARING OFFICER VALKOSKY: Okay, and  
5 again, just to clarify for the record, that type  
6 of mitigation is, in your opinion?

7 MR. PAEZ: Is the funding of a  
8 rehabilitation project at building 113.

9 HEARING OFFICER VALKOSKY: Thank you.  
10 Mr. Carroll.

11 MR. CARROLL: No cross-examination.

12 HEARING OFFICER VALKOSKY: Mr.  
13 Westerfield.

14 MR. WESTERFIELD: Thank you, Mr.  
15 Valkosky, just a couple questions.

16 CROSS-EXAMINATION

17 BY MR. WESTERFIELD:

18 Q To your knowledge is there an eligible  
19 or established historic district that encompasses  
20 both the meter house and the compressor house and  
21 building 113?

22 A Yes, I believe that the cultural  
23 resource survey that the City did establishes that  
24 essentially the entire waterfront could be sort of  
25 a larger historic district, in that all these

1 areas would be concentrations of historic  
2 resources within that district.

3 So, it would be in this document that  
4 you would find that information. This document is  
5 the central waterfront cultural resource survey.

6 Q So, but is it your testimony that  
7 currently the work that has been done establishes  
8 a district that is eligible historic district that  
9 encompasses these buildings?

10 A Yes. That's what the purpose of this  
11 document, the central waterfront cultural resource  
12 survey document was, to identify areas in that  
13 geographic region of the City that are eligible  
14 historic districts. And they have established  
15 that essentially the entire survey area could, in  
16 fact, be a historic district.

17 If that were the case you would have  
18 areas such as Pier 70 and the Potrero Power Plant  
19 being within the same district.

20 Q And, again, that opinion is based upon  
21 the central waterfront cultural resources survey?

22 A Yes.

23 Q Has there been any action from the City  
24 that actually accepts this area that might include  
25 both the meter house and the compressor house and

1 building 113 as an historic district?

2 A Well, beyond what's already in the  
3 survey document there's been conversations between  
4 the chair of the Pier 70 advisory group and the  
5 president of the San Francisco landmarks  
6 preservation advisory board on how to further  
7 recognize the Potrero Point historic district that  
8 was identified by the City's witnesses.

9 By two things. One is to amend the  
10 context statement to more clearly define that area  
11 and establish its significance. And then, two, to  
12 prepare the recordation, the 523 forms that would  
13 establish the descriptions of the properties in  
14 that district, as well as their significance.

15 So, that's -- I don't have a schedule  
16 when that's going to be done, but there's  
17 currently, you know, this coordination effort  
18 underway to try to make that happen within the  
19 near future.

20 Q And has the City done anything beyond  
21 that?

22 A Not to my knowledge.

23 MR. WESTERFIELD: That's all the  
24 questions I have.

25 HEARING OFFICER VALKOSKY: Mr. Ramo.



1 MR. RAMO: No questions.

2 HEARING OFFICER VALKOSKY: Any redirect?

3 MS. MINOR: No.

4 MR. SMITH: One quick question. Staff's  
5 witness -- clearly there's a difference of opinion  
6 between you and the staff's witness regarding  
7 appropriate mitigation.

8 Could you explain for the record why you  
9 feel that it's appropriate to mitigate with the  
10 funding to rehabilitate a building that is  
11 unrelated to the historic nature of the subject  
12 buildings we're talking about?

13 MR. PAEZ: Well, this idea of the  
14 mitigation by rehabilitating sort of a like  
15 resource for the impact created by the destruction  
16 of the others was actually something that the Port  
17 developed with its Pier 70 advisory group. So it  
18 actually came from the community.

19 It's not -- the fact that the Port has  
20 existing policy that establishes the preservation  
21 of Pier 70 and those historic resources as a  
22 priority also comes from the community.

23 And so as we move forward with our  
24 planning activities in that area, we deal with the  
25 stakeholders, the residents and so on in that

1 area. And it's been through their advocacy that  
2 we've established this policy.

3 And therefore when we were doing our  
4 Pier 70 advisory group work, we also looked at  
5 what we call influences to our planning  
6 activities. And being that the power plant is  
7 just to the immediate south, the group took a  
8 great interest in that and asked that we bring the  
9 project to them. And asked that they be given the  
10 opportunity to develop essentially this concept of  
11 mitigation.

12 And it was through that process that  
13 included historic resource specialists from the  
14 community that they came up with this idea.

15 And as a result the City retained Dr.  
16 Groth and Christopher Planck and Charles Chase,  
17 and took that idea and tried to identify what are  
18 the elements that one would need to find in order  
19 to be able to support this concept of mitigation.

20 The community's very adamant that we  
21 rehabilitate building 113 to the Secretary of  
22 Interior standards. At the same time they have a  
23 very different opinion than the CEC Staff, in that  
24 they believe that whatever condition the resources  
25 are in at the power plant site, they are the only

1 elements left of a very historic period and use in  
2 that area of the City.

3 And so they may not be pretty; they may  
4 not be something that the general public can  
5 understand readily, but nevertheless they believe  
6 that they're very significant and should be  
7 recognized as such.

8 And therefore, in their minds the only  
9 true mitigation would be to be able to say that a  
10 like resource would, in fact, be preserved for the  
11 future and for public understanding of the  
12 history.

13 So, it's through that process that we  
14 arrived at this juncture saying that we believe  
15 that there is a historic district; and that these  
16 resources demand a higher level of mitigation.

17 And I think that's the fundamental  
18 difference between where the City is coming from  
19 and where the CEC Staff is coming from, is that  
20 the view of the resources of the power plant site,  
21 the view and the assessment of their integrity,  
22 and their local's as well as national  
23 significance.

24 MR. SMITH: Thank you.

25 HEARING OFFICER VALKOSKY: Is there

1 anything further for the witness? Thank you, sir.  
2 You're excused.

3 MS. MINOR: The City would like to move  
4 into evidence the prepared testimony of Mark Paez  
5 regarding cultural resources. It is marked as  
6 exhibit 67.

7 HEARING OFFICER VALKOSKY: Is there  
8 objection?

9 MR. WESTERFIELD: No objection.

10 MR. RAMO: No objection.

11 HEARING OFFICER VALKOSKY: No objection,  
12 exhibit 67 is admitted.

13 MS. MINOR: In addition we have brought  
14 with us today copies of central waterfront  
15 cultural resources survey. This is the document  
16 where there was quite a bit of discussion during  
17 the last hearings about whether the copy we had  
18 was the final copy, and if it could be admitted  
19 into in the record.

20 We do have sufficient copies for all the  
21 parties. The copy that was endorsed by the San  
22 Francisco Planning Commission is the copy of the  
23 survey that has on its cover October 2000 through  
24 October 2001. And we do have copies for the  
25 record if we could admit it as --

1 HEARING OFFICER VALKOSKY: Okay, now,  
2 refresh my recollection. We did not identify the  
3 previous version, is that correct?

4 MS. MINOR: We did not.

5 HEARING OFFICER VALKOSKY: So we will  
6 identify this version --

7 MS. MINOR: Exhibit 73?

8 HEARING OFFICER VALKOSKY: -- October  
9 2000 to 2001, central waterfront cultural  
10 resources survey summary report, and draft context  
11 statement as next in numbered order, which is  
12 exhibit 73.

13 Is there objection to its admission?

14 MR. CARROLL: No.

15 HEARING OFFICER VALKOSKY: Any  
16 objection, Mr. Westerfield?

17 MR. WESTERFIELD: The reservation that  
18 we have is that we haven't seen it. So, we don't  
19 know what's in it. So I have some reservation as  
20 to whether to just say let's put it in the record.

21 So, I guess on that basis, we would  
22 object to it. But if we had the opportunity to  
23 see it and review it, then I imagine that we could  
24 revisit the issue.

25 HEARING OFFICER VALKOSKY: Well, you can

1 review it over lunch break. I'm sure it's just as  
2 Ms. Minor characterized it. We had had  
3 discussions about this back in July.

4 So, we'll hold the admission of that in  
5 abeyance. Is there anything else for -- any  
6 public comment on the topic of cultural resources?

7 There is no public comment. With that,  
8 and with the sole exception of the exhibit 73  
9 issue, we'll close the record on cultural.

10 Excuse me for a moment.

11 PRESIDING MEMBER PERNELL: Can we go off  
12 the record, please.

13 (Off the record.)

14 HEARING OFFICER VALKOSKY: All right,  
15 with that we'll take a luncheon recess and  
16 reconvene at 1:00.

17 (Whereupon at 12:20 p.m., the hearing  
18 was adjourned, to reconvene at 1:00  
19 p.m., this same day.)

20 --o0o--

## 1 AFTERNOON SESSION

2 1:13 p.m.

3 PRESIDING MEMBER PERNELL: We're back on  
4 the record. Mr. Valkosky.

5 HEARING OFFICER VALKOSKY: Thank you,  
6 Commissioner Pernel. Mr. Westerfield, exhibit  
7 73?

8 MR. WESTERFIELD: Staff has no objection  
9 to admission.

10 HEARING OFFICER VALKOSKY: All right,  
11 fine. No objection from anyone else? 73, the  
12 central waterfront survey is admitted.

13 Next topic is local system effects. And  
14 before we begin I'd like to make everyone aware  
15 that we do have a commitment to hear Ms. Garbesi  
16 today, before we adjourn today, so this may  
17 require, depending on the progress, taking her out  
18 of turn or not. We'll just have to see how it  
19 goes. Everyone be aware of that; she's  
20 unavailable tomorrow should we have to go to  
21 tomorrow.

22 With that, Mr. Carroll.

23 MR. CARROLL: Thank you. The applicant  
24 calls Steve McClary to testify in the area of  
25 local system effects. Ask that the witness be

1 sworn.

2 Whereupon,

3 STEVEN C. McCLARY

4 was called as a witness herein, and after first  
5 having been duly sworn, was examined and testified  
6 as follows:

7 DIRECT EXAMINATION

8 BY MR. CARROLL:

9 Q Please state your name, title and  
10 employer.

11 A My name is Steven C. McClary; I am a  
12 Principal and Co-owner with MRW & Associates.  
13 We're located at 1999 Harrison Street, Suite 1440,  
14 Oakland, California.

15 Q And could you briefly summarize your  
16 qualifications?

17 A I've been a consultant to parties in the  
18 energy industry with MRW since 1990. I've  
19 consulted to independent power producers,  
20 financial institutions, public agencies and end  
21 users.

22 Prior to that I was employed by the  
23 consulting firm RMI in Sacramento. Principal  
24 clients were municipal power utilities and  
25 transmission developers. And prior to that I was



1 employed by the California Energy Commission where  
2 I assisted in resource planning in what was then  
3 the energy assessments division in evaluation of  
4 power plant siting applications. And in the  
5 evaluation of nuclear technologies under the  
6 nuclear legislation.

7 Q And are you the same Steve McClary that  
8 submitted supplemental -- I'm sorry, prepared  
9 testimony in this proceeding which has now been  
10 identified as exhibit 68?

11 A Yes, I am.

12 Q And if I were to ask you the questions  
13 contained in your prepared testimony today under  
14 oath, would your answers be the same?

15 A Yes, they would.

16 Q And did you prepare the local system  
17 effects analysis for Potrero Unit 7, which is set  
18 forth in attachment B to your prepared testimony?

19 A Yes, I did.

20 Q And could you briefly describe the  
21 analysis and conclusions set forth in that  
22 document?

23 A The Potrero Power Plant Unit 7 is  
24 proposed 540 megawatt power plant in San Francisco  
25 that, in my opinion, will provide a less

1 polluting, more efficient, more flexible, and more  
2 reliable portion of the California electrical  
3 system, and in particular, of the electrical  
4 system supplying San Francisco than currently  
5 exists.

6           The addition of Potrero 7 will provide  
7 increased operating and planning reserve margins;  
8 allow more reliable, more flexible operation of  
9 the electric system allowing for more reliable  
10 operation. And in addition, will provide  
11 increased supply which will provide for a more  
12 competitive electric supply market in California.

13           I concur with the staff and ISO findings  
14 that reduced system losses due to putting Potrero  
15 7 online would amount to \$55- to \$80-million over  
16 a 20-year period. And this is an additional  
17 benefit, both economically in terms of  
18 reliability, and environmentally as well.

19           I think the unit is particularly  
20 valuable due to its location in San Francisco  
21 where local generation is insufficient to supply  
22 the needs of the citizens and all the load in San  
23 Francisco. Imports are required. Potrero 7 would  
24 reduce the reliance on imports of power into San  
25 Francisco and allow for a more reliable system and

1 a more cost effective supply of power to San  
2 Francisco.

3 Ultimately I believe that the project  
4 will operate in a fashion, whether it's under  
5 contract or under regulation by FERC or other  
6 agencies, that will both allow it to provide  
7 reliability services at the direction presumably  
8 of the California ISO, and also reduce or mitigate  
9 any potential market power concerns that might be  
10 raised by the location in San Francisco, which is  
11 a transmission-constrained area, and the relative  
12 concentration of ownership of power plants in the  
13 City.

14 Q Thank you. Does that complete your  
15 testimony here today?

16 A Yes, it does.

17 MR. CARROLL: Mr. McClary is now  
18 tendered for cross-examination.

19 HEARING OFFICER VALKOSKY: On page 1,  
20 roughly lines six to eight of your attachment B,  
21 and you also testified to it orally, it's about  
22 reduced system losses saving ratepayer s \$55- to  
23 \$80-million.

24 I assume that that savings requires an  
25 actual passing on of that money to the ratepayers,

1       either through lowered rates or something like  
2       that.  Is that a correct assumption?

3               MR. McCLARY:  Well, it would be  
4       reflected in the revenue requirements that are  
5       used to set the rates to ratepayers assuming that  
6       we're talking about the ratepayers of the  
7       investor-owned utilities.

8               There's an equivalent process for  
9       municipal utilities, to the extent they were  
10      buying power and the overall cost was reduced for  
11      the same reason, because of lower losses overall.

12              But the answer would be, yes, although  
13      you might not see an item in a rate case that said  
14      reduced losses reducing rates by "x" amount.  But  
15      it would be reflected in the revenue requirements  
16      used to set the rates.

17              HEARING OFFICER VALKOSKY:  Okay, --

18              MR. McCLARY:  They would be reduced  
19      because of this.

20              HEARING OFFICER VALKOSKY:  -- and that  
21      would be adopted or authorized by the PUC or the  
22      governing board of a muni, right?

23              MR. McCLARY:  Yes.

24              HEARING OFFICER VALKOSKY:  Okay.  Does  
25      putting Potrero 7 online eventually in any way

1 prevent or delay a shutdown of the Hunter's Point  
2 units?

3 MR. McCLARY: Putting Potrero 7 online  
4 delay or prevent --

5 HEARING OFFICER VALKOSKY: Yeah, does it  
6 delay or prevent a shutdown of the Hunter's Point  
7 units?

8 MR. McCLARY: No. In fact, it enables  
9 the shutdown that is a policy goal of San  
10 Francisco's.

11 HEARING OFFICER VALKOSKY: Okay, thank  
12 you. Mr. Westerfield.

13 MR. WESTERFIELD: Yes, thank you. Just  
14 a few questions, please.

15 CROSS-EXAMINATION

16 BY MR. WESTERFIELD:

17 Q Mr. McClary, I'm Bill Westerfield, now  
18 with the CEC, and only recently.

19 A Good afternoon.

20 Q I had a question on page 2 of your  
21 attachment B, in the top paragraph. And you state  
22 there that in the sentence beginning with, "As a  
23 result..." or the sentence that reads, "As a  
24 result CalISO operate criteria requirement  
25 approximately 40 percent of San Francisco's load

1 be supplied by in-City generation to guard against  
2 the loss of transmission capacity."

3 Could you explain, please, the basis for  
4 that statement?

5 A Well, as cited, that was the conclusion  
6 and the basis for the work of the San Francisco  
7 Peninsula long-term transmission planning group,  
8 that examined alternatives for transmission coming  
9 into San Francisco.

10 Essentially, though, what underlies the  
11 requirement or the desire for the 40 percent of  
12 load generation in that case was the ability to  
13 operate the transmission system safely so that if  
14 you have one of the transmission facilities, for  
15 example, what's referred to as the N-1 criterion,  
16 if you have one of those lines go down, you would  
17 still be able to support the operation of the  
18 remaining transmission lines. And therefore  
19 continue to bring enough power in so that you  
20 don't have to have an outage in San Francisco.

21 Q Fine, but are you basing this statement  
22 on the study group's report, or do you have any  
23 additional basis or knowledge for that statement?

24 A Well, the ISO operating criteria are  
25 adopted, or have been adopted from PG&E operating

1 criteria that were in place prior to the  
2 changeover of operation of the transmission  
3 system.

4 Subsequent to that the ISO had the  
5 operating criteria publicly available, but  
6 subsequently amendments to those operating  
7 criteria, and in the current version they're not  
8 publicly available.

9 So I'm basically relying on my  
10 understanding of how the operating criteria  
11 continue to operate, although I do not have access  
12 to those documents directly.

13 Q All right, thank you. I'd like to refer  
14 you to page 9 of attachment D, the second or last  
15 paragraph, actually, of your attached testimony.

16 And the sentence that begins with,  
17 "While both Mr. technologies...". You can read  
18 that.

19 A Yes.

20 Q You refer to new simple cycle plants.  
21 Are you also including or referencing in that  
22 statement peaking units?

23 A Well, I'm referring to simple cycle  
24 plants or noncombined cycle units because those  
25 are most typically the configuration you would use

1 for a peaking unit.

2 In fact, units that are put into service  
3 as peaking units, whether they're simple cycle  
4 turbines or diesel generators, are typically the  
5 less efficient units. And it is for that very  
6 reason that they're used only for peaking purposes  
7 rather than as medium cycle or baseload plants.

8 Q More specifically would your opinion be  
9 the same for peaking units such as LM6000s? I'm  
10 sure you're familiar with that kind of unit.

11 A Yes. An LM6000 that's not in the  
12 combined cycle mode will have a poorer heat rate  
13 than a combined cycle plant like Potrero 7.

14 Q Okay.

15 MR. WESTERFIELD: That's all the  
16 questions I have, thank you.

17 HEARING OFFICER VALKOSKY: Ms. Minor.

18 MS. MINOR: Thank you.

19 CROSS-EXAMINATION

20 BY MS. MINOR:

21 Q Hi, how are you?

22 A Good afternoon.

23 Q Not a lot of questions, just a few to  
24 make sure we understand your testimony. Are you  
25 familiar with the modified testimony filed by the



1 CEC Staff and ISO in local system effects? -- a  
2 copy of it available.

3 A I believe so. Let's see, how can we  
4 identify it? Are we talking about page 6.6-1?

5 Q That's right.

6 A Dated March 26, 2002?

7 Q No, this is the version dated December  
8 2, 2002.

9 A I think I it's one of those automatic  
10 footnote page problems, the date isn't fixed. I  
11 have it.

12 Q Okay, great. On page 6.6-13 of the  
13 revised testimony the first full paragraph, the  
14 sentence that begins, "A reduction in system  
15 losses of this magnitude, if passed on by the  
16 generators to the ratepayers," "if passed on by  
17 the generators to the ratepayers" is a  
18 modification to the previous testimony?

19 A I see that.

20 Q Okay. In your testimony attachment B  
21 you quote from the original ISO testimony, would  
22 you accept the modification that ISO has now made,  
23 which is if passed on by the generators to the  
24 ratepayers as a modifier?

25 Would you like for me to point out where

1 in your testimony where --

2 A No, no, I'm --

3 Q -- are?

4 A -- familiar.

5 Q Okay.

6 A I'm thinking in general I would agree  
7 with that modifier. I'm only thinking in terms of  
8 what set of circumstances there might be where  
9 system losses would not be, in some fashion,  
10 reflected in electricity prices and indirectly  
11 passed on to ratepayers, other than the sense that  
12 I described in my response to Mr. Valkosky, where  
13 it's reduction in revenue requirements.

14 But, frankly, in one sense or another I  
15 believe they would be passed on; this modification  
16 would be fine.

17 Q So you would accept the modification to  
18 your testimony, as well. The two places that I  
19 noted in your testimony, the summary on page 1,  
20 the sentence that begins, "Reduce system losses"  
21 that Mr. Valkosky pointed out to you. And then  
22 again at the bottom of page 3 of your testimony.  
23 The sentence that begins, "The addition of Potrero  
24 Unit 7 in close proximity to existing electrical  
25 loads will substantially reduce transmission

1 system losses by reducing total generation  
2 needed." Those two places?

3 A I would say that my testimony is that  
4 not only that there are benefits due to the  
5 reduction in losses, but that it would be my  
6 expectation that, in fact, those losses would be  
7 passed on to ratepayers by action of the PUC or  
8 municipal boards, to the extent that they were not  
9 explicitly passed on in those revenue  
10 requirements. They would probably be reflected in  
11 lower prices in the market as a whole.

12 And therefore would still be a society  
13 benefit. But certainly, to the extent that  
14 they're passed on explicitly to the ratepayers,  
15 that's where they would show up.

16 Q In reviewing section C, beginning on  
17 page 4 of your testimony, the section entitled,  
18 electric supply and demand in California, you list  
19 a number of benefits. Are any of those benefits  
20 specific to the San Francisco Bay Area or are  
21 these statewide benefits?

22 A In some cases they're specific to the  
23 Bay Area. In others they're a benefit both  
24 statewide and specifically within the region.

25 For example, the first point, to meet

1 reliability requirements for capacity located  
2 within San Francisco, clearly is directed at the  
3 need for reliability resources in San Francisco.

4 Q And which of the requirements are  
5 more -- which of the benefits are directed at the  
6 state grid?

7 PRESIDING MEMBER PERNELL: At the what?

8 MS. MINOR: The state electrical system,  
9 statewide, as opposed to San Francisco Bay Area.

10 MR. McCLARY: Well, I would say the  
11 second point, capacity to provide ancillary  
12 services balancing energy is a benefit both  
13 locally in San Francisco and to the operation of  
14 the statewide system.

15 Similar argument for available capacity  
16 to help meet reliability operating and planning  
17 reserve margins. That, again, is a benefit both  
18 in San Francisco specifically, and statewide.

19 Additional supply to support more  
20 competitive electric market. At this time an  
21 increase in overall supply is a factor that is  
22 certainly helpful in creating a more competitive  
23 energy market generally statewide, and is, you  
24 know, that's a point that's been made, in fact, by  
25 the Energy Commission very succinctly in the

1 energy outlook.

2 Within San Francisco insuring a  
3 competitive electricity supply will rely, in large  
4 part, on regulatory action as it does today. And  
5 the contracting and regulatory arrangements that  
6 are in place to protect against or mitigate any  
7 potential exercise of market power.

8 Q So now if the proposed Unit 7 is built  
9 and Hunter's Point is shut down, Mirant would be  
10 the only provider or generator of electricity in  
11 San Francisco?

12 A Well, it depends on where you draw the  
13 line. There is United Cogen out at the airport.  
14 And I think there actually is a small amount of  
15 third-party generation in the City now,  
16 cogeneration, QF for example. I think there's  
17 some at USF or SFState.

18 But certainly Mirant would be the  
19 majority owner of generation actually located  
20 within the City. Now, that's different from  
21 supplier to the City, since, in fact, much of the  
22 power that is used within the City comes from  
23 outside, and is either, in some cases, owned by  
24 the City, itself, the Hetch Hetchy generation.

25 In other cases, comes from the market

1 more generally and comes from a variety of owners  
2 in units throughout California.

3 Q Okay. So, it is your testimony that if  
4 Unit 7 is constructed, is licensed and  
5 constructed, and if Hunter's Point shuts down,  
6 Mirant would be the generator of the overwhelming  
7 majority, is it more than 95 percent, of the  
8 electricity in San Francisco?

9 A I haven't actually calculated a  
10 percentage of what generation, what percent of the  
11 generation physically located within San Francisco  
12 would be owned by Mirant.

13 Q Is it more than 50 percent?

14 A Yes.

15 Q More than 75 percent?

16 A As I say, I haven't calculated an exact  
17 percentage.

18 Q Okay.

19 A There would additionally be a question  
20 as to the percentage of actual capacity that would  
21 be owned by Mirant, which presumably would be the  
22 Potrero Power Plant, both Potrero -- the existing  
23 Potrero Units and Potrero 7.

24 And the amount of energy that's  
25 generated and consumed, which would quite likely

1 be lower percentage than the percentage of actual  
2 generating capacity.

3 And, in fact, it's difficult to predict  
4 without knowing in advance what, if any,  
5 conditions would be put on operation of Potrero 7  
6 for this very reason, to insure that there was not  
7 an exercise in market power.

8 Q And that's the point of the question,  
9 just to get at, with you, a discussion of, from  
10 your standpoint, what factors, what considerations  
11 will be necessary in San Francisco to insure a  
12 competitive -- insure control mitigation of market  
13 power if Unit 7 is built and Hunter's Point is  
14 shut down.

15 A Well, it's a large question, and it's  
16 certainly under consideration actively at the  
17 Federal Energy Regulatory Commission right now.  
18 Has been an issue of contention in the state for  
19 some time.

20 How it might be addressed for Potrero 7  
21 and San Francisco we simply don't know right now.  
22 I would anticipate that ultimately we will see  
23 Potrero 7 operating under either or both the  
24 contractual regime and regulatory requirements.  
25 Contractually you could well envision that Potrero

1       7 would operate under a contract that would  
2       provide the ISO with the reliability of services  
3       that it would seek to gain from generation in San  
4       Francisco.

5               That's the case with the existing units  
6       in San Francisco which operate under what are  
7       called RMR contracts. The ISO is trying to find  
8       other mechanisms, so I wouldn't be able to say it  
9       will operate under an RMR contract. I don't think  
10      the ISO -- well, the ISO is seeking to develop  
11      other kinds of agreements.

12             A contractual agreement could also serve  
13      the purpose of insuring that Potrero 7 did not  
14      exercise market power, or that Mirant didn't  
15      benefit from the exercise of market power.

16             Currently that's also accommodated  
17      within RMR agreements. It could well be that  
18      control or restrictions on units in order to  
19      insure that there's no market power exercised  
20      would be done either in the form of an agreement,  
21      or it could be done under new regulatory  
22      requirements to be imposed by FERC.

23             I think it's safe to say, though, that  
24      as long as San Francisco remains a transmission  
25      constrained area, and as long as there is what is



1       deemed to be a significant concentration of  
2       ownership of generation in San Francisco, that  
3       some such mechanism will be put in place and will  
4       be required.

5           Q     Are you aware of any current discussions  
6       between Mirant and ISO to define the kind of  
7       market power mitigation that would be appropriate  
8       for the proposed Unit 7?

9           A     I don't know what the status of those  
10      negotiations is to date. I do know that such  
11      discussions have taken place, and that the  
12      difficulty at this point is simply in resolving  
13      what the role of the ISO is, the approach it wants  
14      to take, and who the counterpart to a contract  
15      should most appropriately be.

16                Whether it would be the ISO; whether it  
17      would be, for example, PG&E. Or another load  
18      serving entity in the area. Or a combination of  
19      those.

20          Q     Did you consider, in preparing your  
21      written testimony, the implications of ISO's  
22      determination that Unit 7 is a single contingency  
23      power plant?

24          A     My testimony would be based on an  
25      assumption that that would be the ISO's

1 determination. As I understand it that is  
2 currently the ISO's position, that it would be the  
3 largest single contingency, would be the entire  
4 plant.

5 Q Based upon ISO's determination that Unit  
6 7 is a single contingency power plant, do you have  
7 an opinion whether from a reliability standpoint,  
8 an area such as San Francisco that is both  
9 transmission constrained, as well as having  
10 limited generation, would be better off with two  
11 simple cycle power plants totaling 540 megawatts,  
12 as opposed to one combined cycle power plant?

13 A Well, I mean there's a lot involved in  
14 what better off would mean.

15 Q I specifically meant from a reliability  
16 standpoint.

17 A From a reliability standpoint it's  
18 possible that two smaller plants would be regarded  
19 as providing a smaller single largest contingency  
20 issue that needed to be addressed with the ISO  
21 sets reliability requirements.

22 Whether, in fact, the City is better off  
23 from a reliability standpoint would depend on what  
24 actions were necessary, or I guess what different  
25 actions you would take, or what different

1 requirements you would impose to insure  
2 reliability in such a regime.

3 Compared to the situation where you have  
4 one combined cycle plant that's larger, but may,  
5 in fact, have a better availability factor, for  
6 example. Or may be able to operate more flexibly.  
7 Or be able to provide reliability of services or  
8 inexpensively, because it's a more efficient  
9 plant.

10 So that from the ISO's point of view if  
11 they have a contract to provide reliability  
12 service, and they have to pay a certain price for  
13 that, it might well be that a larger but cheaper  
14 plant allows them to provide an equivalent level  
15 of reliability at a lower cost.

16 In that case I would say they would be  
17 better off from a reliability standpoint with the  
18 larger plant.

19 Can't really know without having done  
20 studies of actual feasible proposed, you know,  
21 costed-out alternatives to the Potrero 7 plant.

22 Q Based upon your understanding of single  
23 contingency issue, and the reliability and  
24 transmission constraint issues, do you believe it  
25 is reasonable in this case to look at an

1 alternative that would be two simple cycle power  
2 plants?

3 A I have not done an analysis of such a  
4 proposal, but I really have to think that two  
5 large simple cycle power plants would not be a  
6 very effective or very cost effective way to  
7 address the reliability and energy needs of San  
8 Francisco.

9 The difference in heat rate, potentially  
10 the difference in the emissions rates, I don't  
11 know what the impact would be on a whole variety  
12 of factors related to the efficiency of the plant.

13 It's really hard to say, absent anything  
14 more concrete, whether that could possibly be an  
15 effective alternative. But I suspect not.

16 Q But to assess it, more work would need  
17 to be done? It would need to be studied?

18 A To assess a proposal that hasn't been  
19 put forward yet? I think almost any proposal that  
20 has not been put forward and isn't on the table,  
21 if you want to assess such a proposal, that's  
22 going to require more work, since the proposal  
23 hasn't been there yet.

24 Q Well, in fact, the alternative section  
25 of these hearings does just that, right? Look at

1 potentially feasible alternative ways to provide  
2 the same product that's on the table?

3 A That's not the area in which I'm  
4 testifying. In fact, I haven't reviewed the  
5 alternative section of the AFC or the testimony.

6 Q Okay. IF you would look at page 9 of  
7 your testimony, attachment B to your testimony.  
8 The sentence that's immediately after footnote 17,  
9 is a sentence that begins, "Whether efficiency of  
10 combined cycle plants."

11 A Yeah.

12 Q Okay. Have you had a chance to read the  
13 sentence?

14 A Yes, I have.

15 Q Thank you. Just want to clarify that  
16 this sentence means that if you have -- this  
17 sentence is an acknowledgement that a 540 megawatt  
18 power plant does not have lower emissions than a  
19 240 megawatt power plant?

20 A No, that's not such an admission at all.

21 Q Okay. What we're trying to clarify,  
22 there have been statements that Unit 7 will reduce  
23 emissions of pollutants as compared to the current  
24 power plants. Is that your testimony?

25 A That there have been such statements?

1 Q Um-hum.

2 A No, I'm not testifying as to -- well,  
3 I'm not testifying as to statements made by others  
4 about the total amount of pollutants. The amount  
5 of emissions from Potrero 7, as compared to  
6 existing power plants, will depend crucially on  
7 how much generation takes place at Potrero 7 as  
8 compared to existing power plants.

9 Q Thank you.

10 MS. MINOR: No further questions.

11 HEARING OFFICER VALKOSKY: Thank you,  
12 Ms. Minor. Mr. Ramo.

13 CROSS-EXAMINATION

14 BY MR. RAMO:

15 Q Good afternoon, Mr. McClary.

16 A Good afternoon.

17 Q I wonder if you could look again at the  
18 revised staff testimony, and particularly table 1  
19 on page 6.6-3.

20 A Can you give me just a second --

21 Q Sure.

22 A -- the formatting is off on the copy  
23 that I have here. And I just wanted to compare to  
24 the version that I had previously.

25 (Pause.)

1 MR. McCLARY: All right, I have that.

2 BY MR. RAMO:

3 Q You have that before you, that's the --

4 A I have a readable version in front of  
5 me.

6 Q You have which version?

7 A I have a readable version in front of me  
8 now.

9 Q Okay. That's the table entitled, San  
10 Francisco Peninsula generation, correct?

11 A Yes.

12 Q Does that table refresh your  
13 recollection as to what is currently the available  
14 in-San Francisco Peninsula generation that's now  
15 available?

16 A Well, my point was that I believed there  
17 actually are some small -- they may be a very  
18 small number, but I believe there is actually  
19 additional generation, but very small.

20 Q We're talking about --

21 A Much smaller, 1 megawatt kinds.

22 Q -- 1 megawatt --

23 A Yes.

24 Q So substantially this represents --

25 A Substantially.

1 Q -- the current in-generation?

2 A Yes.

3 Q And if Hunter's Point was shut down and  
4 Potrero Unit 7 was operating, are you able to  
5 provide an estimate of what percentage Unit 7  
6 would be of all the in-San Francisco generation?

7 A Well, obviously it would be a very high  
8 percentage of the generating capacity available  
9 within the City. Whether it would be, in fact, I  
10 would believe it would be a smaller percentage,  
11 and perhaps a significantly smaller percentage, of  
12 the actual number of kilowatt hours that are  
13 consumed in San Francisco.

14 And to the extent that in the future  
15 other units might be brought online, it could be a  
16 relatively smaller percentage still.

17 Q Sure, but at this moment, in terms of  
18 the local generation that now exists, if Unit 7  
19 was to be built and Hunter's Point shut down,  
20 Mirant would dominate the local generation by a  
21 huge amount, isn't that correct?

22 A It would be, by far, the largest owner  
23 of generation in the City, yes.

24 Q And so really the only effective  
25 competitor for selling electricity to San



1 Francisco would be those who are selling  
2 electricity that traveled over transmission lines,  
3 is that correct?

4 A Not entirely, although it depends on the  
5 timeframe that you're looking at. At a given  
6 moment in time that would be largely correct,  
7 except to the extent that there are those who  
8 actively sell, for example, conservation services,  
9 which can be regarded as an alternative to  
10 generation.

11 There are parties out there who sell  
12 demand management systems, for example, and a  
13 particular buyer of power is certainly capable,  
14 and many do, engage such services in place of  
15 buying electricity.

16 Q But effectively --

17 A So there's an alternative source.

18 Q I'm certainly the last one to dispute  
19 that conservation may allow the replacement of  
20 certain generation, but effectively, for most of  
21 the electricity, the effective competitors are  
22 those who are selling electricity across  
23 transmission lines, isn't that your whole point?

24 A It is the point, but again, you know,  
25 the qualification on that is that a competitor is

1 a competitor. Mirant is a competitor in that  
2 market to the extent that it is allowed to  
3 compete, if you will.

4 So, as I said before, I do actually  
5 anticipate that there would be some type of  
6 regulation or contractual control on Mirant's  
7 competitive position.

8 And to that extent I guess I would not,  
9 you know, if they are, by agreement or by  
10 regulation, precluded from competing in certain  
11 circumstances, and that is the case today. That  
12 in that respect they are not a competitor. And  
13 the other sellers into the electricity market  
14 generally, to the extent that they're supplying  
15 load that's in San Francisco, yes. But today that  
16 is almost exclusively power that's supplied via  
17 the transmission system.

18 Q And but for regulatory action of the  
19 kind that you've discussed, the potential kind  
20 that you've discussed, or any other kind of  
21 regulatory action there may be, Mirant would be  
22 competing with those providing electricity over  
23 the transmission lines, is that correct?

24 A Well, but for regulatory or contractual  
25 agreement, which would well be voluntary

1 agreements not imposed by regulation, Mirant could  
2 be competing or it could be providing power under  
3 agreements that, again, or under conditions that  
4 I'm not sure I would really regard as competing  
5 with others.

6 And example will be energy provided  
7 under some equivalent to an RMR contract. Are  
8 they competing with others to provide that energy?  
9 Well, not really, they're being required to  
10 provide it even at times when it may not be  
11 otherwise economic for them to provide it.

12 Q But unless Unit 7 is under an RMR  
13 contract, or whatever the successor is that's  
14 developed by the ISO, it would be, in effect,  
15 competing with electricity coming over the  
16 transmission lines, isn't that correct?

17 A By and large that would be correct, yes.

18 Q Okay. Now if there was a similar  
19 generator who had the equivalent of Unit 7  
20 somewhere down the transmission line part of your  
21 argument, is it not, that Unit 7, being here  
22 locally, would be able to provide electricity  
23 cheaper because the person down the line would  
24 have to address transmission system loss, isn't  
25 that correct?

1           A     No, actually the point that I was making  
2     about transmission system losses, is that losses  
3     are incurred on the transmission system as a  
4     whole.  It's a measured item, if you will, for the  
5     utility, as a whole.

6                 To the extent that generation is located  
7     close to or at the consuming point, close to load,  
8     losses are lessened on the system as a whole.  
9     And, in fact, that's how the losses end up being  
10    reflected in the rates that are set by the Public  
11    Utilities Commission, for example.

12                There's a loss factor that's added to  
13    the revenue requirement.  And that's reflected in  
14    everybody's rates because of reduced losses on the  
15    system as a whole.

16                So that's not -- the benefits due to  
17    reduced system losses are not dollars that are  
18    somehow controlled by Mirant, or that Mirant  
19    receives.  Those benefits are benefits to  
20    ratepayers, as a whole.  They're not dollars that  
21    Mirant gets somehow.

22           Q     So to that extent you dispute the  
23    testimony of the staff where they say if the  
24    generators decide to pass it on?  Your testimony  
25    is that it's not up to the generators whether to

1 pass it on?

2 A Can you show me where the staff  
3 testimony says if the generators decide to pass it  
4 on?

5 Q Well, let's look at what the staff --

6 A If I recall it right --

7 Q -- actually said, and then we'll proceed  
8 from there.

9 A I think actually it's to the extent that  
10 those savings are passed on to ratepayers.

11 Q Okay, why don't we turn to page 6.6-2,  
12 and under summary of conclusions, the first  
13 paragraph. Do you have, first of all, the page in  
14 front of you?

15 A Yes, I do.

16 Q Okay, and paragraph number one, the  
17 second sentence says, "Over 20 years the savings,  
18 if passed on by the generators to ratepayers have  
19 a present value between 55 million and 80  
20 million." You disagree with to the extent that  
21 they're saying passed on by generators?

22 A I disagree with the sense in which  
23 you're taking it, which is not what I had  
24 understood earlier, a sense that somehow the  
25 generators have this money to pass on.

1           As I stated, and I thought I was  
2           actually relatively clear about this, the losses  
3           reflected in the revenue requirements, there's  
4           reduced amount of electricity that needs to be  
5           bought to supply to utilities. There's not a loss  
6           number that somehow Mirant or another generator  
7           gets from the system and can pass on by its own  
8           discretion.

9           This is part, this is set in the rates  
10          that the PUC and municipal utilities governing  
11          boards set. They're the ones that determine how  
12          losses are included in revenue requirements and  
13          passed on to ratepayers.

14          Q     So I take it your testimony is that in  
15          the hypothetical I gave you, Unit 7 down the  
16          transmission line versus Unit 7 locally, there's  
17          no specific advantage to the ratepayer or to  
18          Mirant in being located closer to San Francisco?  
19          Is that your testimony?

20          A     No. No. And, in fact, there is an  
21          advantage, as I stated, to having generation  
22          located closer to load, because that reduces the  
23          losses on the system. And thereby reduces the  
24          cost incurred in generating electricity and  
25          delivering to consumers.

1           Q     So specifically, if you look at that  
2     specific example, the cost of delivering  
3     electricity from the facility down the road  
4     compared to the cost of generating it locally by  
5     Unit 7 and Mirant, are different, are they not?

6           A     Well, it depends on where you're  
7     measuring it. The cost of producing the  
8     electricity will certainly differ from one place  
9     on the grid to another. The cost of delivering  
10    electricity from one place on the grid to the  
11    place where it's consumed will vary according to  
12    where the electricity is generated.

13          Q     And I'm just asking you a simple  
14    question which I think is consistent with your  
15    testimony, the whole point, I thought, of Unit 7,  
16    since your -- strike that. It's a little  
17    argumentative.

18                   (Laughter.)

19          MR. WESTERFIELD: You can't -- can you  
20    object to your own question?

21                   (Laughter.)

22          MR. RAMO: I can certainly strike it  
23    without objection.

24    BY MR. RAMO:

25    //

1           Q     Your testimony is that most of the  
2     electricity from Unit 7 will go to San Francisco,  
3     isn't that right?

4           A     Yes.

5           Q     And so given that it's closest to where  
6     the electricity is being generated, wouldn't Unit  
7     7 be cheaper in producing electricity than a Unit  
8     7 built in San Jose, for example, to San  
9     Francisco?

10          A     Well, the point here is that it would be  
11     less expensive to ratepayers in general for that  
12     power to be produced in San Francisco. However,  
13     that does not translate into a price advantage or  
14     a cost advantage to Mirant as operators of Potrero  
15     7, in that they somehow have a lower cost, but  
16     they're receiving, you know, they're getting a  
17     bigger profit because they have to reduce losses.

18                 In fact, --

19          Q     Well, if -- putting --

20          A     -- the generators in different parts of  
21     northern California will receive the same price.

22          Q     But if the amount of fuel to produce a  
23     unit of electricity is more because they're down  
24     the transmission line, then the cost of fuel to  
25     produce electricity at Unit 7 and Mirant, doesn't



1       that mean that Mirant's costs are less for  
2       producing the same amount of delivered electricity  
3       as Unit 7 down in San Jose?

4           A     No.  It means that the cost to the  
5       consumers of electricity is lower because it's  
6       being produced closer to load.  But it doesn't  
7       mean that Mirant's costs are lower by virtue of  
8       their location.

9           And, in fact, typically within northern  
10      California they'll receive the same price on the  
11      market for electricity as someone located outside  
12      of San Francisco.

13           So, their cost isn't what's lowered;  
14      it's the cost to the consumers of electricity.

15           Q     And that's based on your assumption that  
16      when the PUC regulates cost of PG&E, for example,  
17      assuming the Bankruptcy Court ever let's them do  
18      it again, that the PUC, even today in a  
19      deregulated market, will let PG&E, a nongenerator,  
20      charge for system losses, is that correct?

21           A     Yes.  I think the PUC will allow for  
22      system losses when they determine the costs that  
23      go into the rates that are charged to PG&E  
24      ratepayers.

25           Q     Now, in your testimony you indicated

1       that you expected Unit 7 to operate between 30 and  
2       100 percent of its capacity, is that correct?

3           A     I'm sorry, could you repeat that?

4           Q     In your testimony is it correct that you  
5       anticipated that Unit 7 will operate between 30  
6       and 100 percent of its full capacity, is that  
7       correct?

8           A     Let's make sure we're looking at the  
9       right sentence on that, all right?

10          Q     I'll refer you to page 5 of your  
11       attachment B, in the first sentence, second  
12       paragraph.

13          A     It's my understanding that the project  
14       can operate within that range. I haven't actually  
15       done modeling to project what the actual capacity  
16       factor would be.

17          Q     So do you know, in a typical day, given  
18       the current system that's in San Francisco, what  
19       the expected capacity factor will be for Unit 7?

20          A     No, I don't know what the expected  
21       capacity will be.

22          Q     But what's your basis -- what was the  
23       basis of your statement that most of the  
24       electricity will go to San Francisco?

25          A     During most hours I would anticipate

1       that Potrero 7 operating anywhere up to full  
2       capacity will be providing something less than, or  
3       some hours, perhaps, equivalent to, but not very  
4       often would Potrero 7 be supplying more than the  
5       total load to San Francisco.

6               Therefore, most hours that it's  
7       operating it's going to be providing power that is  
8       used within San Francisco.

9               Q     Since you use the word most, are there  
10      some hours where you anticipate it will be  
11      providing electricity to the rest of California?

12              A     There could be hours where the load in  
13      San Francisco was less than the output from  
14      Potrero 7, and you would have a net export from  
15      San Francisco.

16              Q     When you -- I take your testimony in  
17      discussing the benefits of this project, in part  
18      you anticipated that Unit 7 will avoid or mitigate  
19      the need for imports into California of  
20      electricity, is that correct?

21              A     Well, I haven't really based it  
22      specifically on that. But as a general matter,  
23      building generation within California will, in  
24      fact, reduce imports. And I think I did refer to  
25      that as a general benefit from generation built

1 anywhere in California, as well as specifically in  
2 San Francisco.

3 Q Let me have you turn to page 1 of  
4 attachment B, under Roman numeral II, paragraph or  
5 section (a). At the end of the first paragraph  
6 you indicate, "To the extent that market  
7 operations warrant additional levels of operation,  
8 power may be exported to the greater Bay Area, and  
9 the remainder of NP-15."

10 Do you see that sentence?

11 A Yes, I do.

12 Q Okay, and is that -- when you say you're  
13 generally referring that it might bolster the  
14 northern California system, is that how it might  
15 do that?

16 A Well, actually to be specific here, what  
17 I was referring to was that depending on the  
18 operating regimes of the plant, and the regulatory  
19 regime, if you will, however, you know, the  
20 conditions under which it operates, if there are  
21 times where it's generating power beyond that  
22 required locally in San Francisco, then that would  
23 be to the benefit of the greater Bay Area, and to  
24 NP-15 generally northern California, generally.

25 That actually here in saying, you know,

1       that that's under certain market conditions,  
2       depending on market operations, is correct.  It's  
3       also quite possible that the ISO, for example,  
4       would direct Potrero 7 to operate in order to  
5       support reliability requirements particularly  
6       within the greater Bay Area, not just within San  
7       Francisco.

8               And in that case, it wouldn't be just  
9       market operations, but reliability directed  
10      operations that would lead to the plant operating  
11      in order to benefit the greater Bay Area  
12      reliability needs.

13             Q     Now, you've done no studies to  
14      demonstrate that that might occur, have you?

15             A     I have not put forth any studies, no.

16             Q     You haven't done any modeling studies of  
17      situations where it appears likely that Unit 7  
18      would be exporting electricity from San Francisco?

19             A     I have not done that analysis.

20             Q     Let me have you turn to page 3 of your  
21      testimony.  And in the first full paragraph that  
22      begins, "Through sales to the California market",  
23      do you see that paragraph?

24             A     Yes, I do.

25             Q     And well, read the whole first sentence,

1 "Through sales to the California market, Potrero  
2 Unit 7 will benefit the state's electric markets  
3 by providing additional electric generation  
4 capacity within California, improving electric  
5 service reliability, increasing competition and  
6 reducing reliance on uncertain electricity imports  
7 from other states.

8 Now, there's a reference in that  
9 sentence to imports. Is that still your  
10 testimony?

11 A Yes, it is.

12 Q Can you explain how Unit 7 would reduce  
13 imports into California?

14 A Well, to the extent that Unit 7 is  
15 generating to meet San Francisco load  
16 specifically, then other generators currently that  
17 are generating to meet San Francisco loads, via  
18 imports into San Francisco, would be available to  
19 meet load in other parts of the state.

20 Because Potrero 7 would be located in  
21 San Francisco and supplying San Francisco loads  
22 doesn't mean that it's somehow not part of the  
23 larger grid that the state is a part of. It is  
24 generation. That generation that Potrero 7 is  
25 providing is now available elsewhere.

1           Q     And geographically are we speaking about  
2     central and northern California?

3           A     Well, it depends, in part, on the  
4     transmission system at any given time.  How wide  
5     an area you look at in considering that market.  
6     In fact, it's part of a western grid that's common  
7     to the entire western United States.

8                     When there are transmission constraints  
9     that limit the amount of power that can be  
10    imported into California, that generally occurs on  
11    a regional basis, northern California or southern  
12    California, because of the constraint between  
13    those two regions.

14                    But, in fact, Potrero 7 would be part of  
15    that west-wide grid, if you will, and would, in  
16    the case of California, it provides additional  
17    generation within California, which means  
18    generally that you're at least able to import less  
19    power from outside the state.

20           Q     So to the extent that, for example, Moss  
21    Landing is sending electricity to San Francisco,  
22    under your theory if there's Unit 7, Moss  
23    Landing's electricity may be sent somewhere else  
24    to restrict imports into California, is that  
25    correct?

1           A     Electricity from any other unit in  
2     California could either be effectively delivered  
3     elsewhere in California; or depending on loads,  
4     and the relative costs of generation across the  
5     state, Moss Landing might not need to run as much.

6           And, in fact, as a general thing,  
7     because San Francisco is a net importer of power,  
8     that might mean that, for example, older and more  
9     inefficient plants, or more polluting plants, if  
10    you will, ones that have higher emission rates,  
11    will be operated less to the benefit of people in  
12    other parts of the state.

13          Q     But you haven't modeled what would  
14    happen if Unit 7 was brought into the system, have  
15    you?

16          A     I haven't performed say production cost  
17    models, that kind of modeling. No, I have not.

18          Q     Is it easy to do that kind of modeling  
19    now that we have deregulation?

20          A     I'm not sure I would say it was easy  
21    before we had regulation.

22          Q     Has deregulation made it --

23          A     It certainly --

24          Q     -- just as hard, or is it harder than  
25    facilities can bid and contract independently of



1 the regulated monopolies control?

2 A It actually, in modeling such a system  
3 it had pluses and minuses moving to a more  
4 competitive system. In that some regulatory or,  
5 you know, effects due to a monopoly dispatching of  
6 plants for its own purpose, you did not have --  
7 you didn't have to model those.

8 On the other hand, as you say, it is a  
9 more complex system with a greater number of  
10 generators and purchasers of power.

11 Q So you don't know to what extent this is  
12 merely warding off imports versus to what extent  
13 it would cause generators to reduce their output  
14 of electricity?

15 A I have not performed an analysis to  
16 attempt to quantify import reduction versus  
17 reduced generation at in-state power plants.

18 Q And to the extent there's more  
19 electricity available on the system, doesn't that  
20 generally tend to favor lower prices?

21 A It generally should.

22 Q And if there's lower prices doesn't that  
23 generally provide a stimulus to demand?

24 A Well, the question of factors that  
25 underlie demand for electricity, I think, a large

1 question that the Energy Commission has certainly  
2 grappled with since its founding, there should be  
3 some price elasticity of that sort. And you would  
4 expect that lower electricity rates would lead to  
5 some increase in demand.

6 Q And to the extent there's increase in  
7 demand, that would tend to encourage generators to  
8 increase their output, would it not?

9 A Well, I think the point you were trying  
10 to make a few minutes ago was in a deregulated  
11 system they may be responding to price rather than  
12 to demand directly.

13 So, you can't say, per se, that  
14 generators -- generators will be responding to  
15 price. If generators can respond at a given price  
16 level and generate, they will do so, if they make  
17 a profit at it, essentially.

18 Q Would it give you the intervening step  
19 to the extent there's greater demand, doesn't it  
20 tend to boost prices?

21 A Well, see, this is the classic conundrum  
22 of demand forecasting that you've raised. You're  
23 positing a hypothetical that says prices are  
24 lower, so demand has gone up, so doesn't that mean  
25 that prices are going to go up so the demand goes

1 down. And in fact, seeking equilibrium at a point  
2 where demand is responsive at a given price level,  
3 and that price level will differ from one customer  
4 sector to another. It'll differ from one part of  
5 the state to another.

6 And it ends up being quite a difficult  
7 problem.

8 Q Well, I agree. And I ask these  
9 questions in part because you have made  
10 assumptions about prices going down, money being  
11 returned to the ratepayer when you don't know  
12 where electricity will come and go, whether the  
13 generation will increase or decrease, based on  
14 Unit 7 being operating.

15 And I'm trying to understand why you are  
16 so confident that there will be these benefits if  
17 you don't know any of those factors.

18 MR. CARROLL: I'm going to object on a  
19 couple bases. First of all, I think it's a  
20 misrepresentation of the testimony.

21 Second of all, I'm not sure that there's  
22 a question in there, a specific question that --

23 MR. RAMO: I'll withdraw the question.

24 BY MR. RAMO:

25 //

1           Q     One of the other benefits you cite for  
2     Unit 7 is that it will defer future transmission  
3     upgrades, is that correct?

4           A     Once again, make sure that we're reading  
5     the words as written.

6           Q     Why don't I ask you to refer to page 4  
7     of your testimony. And in the first full  
8     paragraph you are citing, I assume with approval,  
9     that -- and I'll read it: The CEC and the CalISO  
10    also conclude that, quote, "Unit 7 will displace  
11    significant transmission upgrades that would be  
12    required to maintain reliability if Hunter's Point  
13    Power Plant is retired without the addition of new  
14    generation in San Francisco such as Unit 7."

15                   Is it correct that you are citing this  
16    finding as a benefit for Unit 7?

17           A     It is correct that I am citing that  
18    finding. I think, in fact, the finding is amended  
19    somewhat in the more recent version of the Staff/  
20    ISO testimony.

21                   And the clarification that's made there  
22    is that Unit 7 may allow deferral of significant  
23    transmission upgrades beyond those currently  
24    planned.

25                   And I would concur in that finding.

1           Q     Now, if Unit 7 went down, wouldn't you  
2     want all the transmission upgrades you could have  
3     to assure reliability for San Francisco?

4           A     Well, I think that's a rather broad  
5     question, if it's even intended to be a question.  
6     First of all, I'm not testifying as to the  
7     desirability of future transmission upgrades.

8                     And, in fact, if they're found to be  
9     cost effective, that would be an appropriate thing  
10    to do to meet the requirements for San Francisco.

11          Q     So it wouldn't necessarily be a benefit  
12    to defer cost effective transmission upgrades,  
13    would it?

14          A     If you can defer additional investments,  
15    not have to make them, or even postpone them, and  
16    still meet your reliability needs in a cost  
17    effective way, then you'll be ahead by having  
18    deferred those expenses until a later time.

19          Q     Well, the big question, I guess, is your  
20    statement if. And what I'm trying to explore, and  
21    the reason why I asked the question is if Unit 7  
22    went down, which is a planning assumption used by  
23    the ISO, wouldn't you want every transmission  
24    upgrade that was cost effective in that kind of  
25    situation?

1           A     Well, in fact, the transmission system  
2     and the upgrades that are planned today are  
3     premised on exactly that contingency. Today the  
4     single largest contingency is loss of the Hunter's  
5     Point Plant, because that's the largest single  
6     plant.

7                 In the future it would be premised on  
8     whatever is determined to be the single largest  
9     contingency. And in the event that Unit 7 is  
10    built, as long as the ISO considers that to be the  
11    single largest contingency, that would be the  
12    basis for their planning, for their transmission  
13    planning.

14           Q     So your opinion is Unit 7 is built, the  
15    planned transmission upgrades are built, there  
16    would be no further reason to do transmission  
17    upgrades in San Francisco?

18           A     As I said, I'm not testifying as to the  
19    desirability or not of transmission upgrades  
20    beyond those that are planned today.

21           Q     You're testifying that beyond the ones  
22    planned today Unit 7 constitutes a benefit because  
23    it defers all additional upgrades.

24           A     I'm testifying that deferral of  
25    investments which could be transmission upgrades,

1 it could be additional generation, if you can save  
2 yourself some money by not spending something now,  
3 then that's a benefit.

4 Q Have you done any cost effective  
5 analysis comparing further transmission upgrades  
6 to Unit 7, beyond those planned?

7 A As I said, I'm not testifying as to  
8 specific benefits of any specific transmission  
9 upgrades beyond those planned.

10 Q Okay. On page 7 of your testimony in  
11 the last paragraph. I'll wait till you have it  
12 before you.

13 You state: Outages severely impact the  
14 state's economy and quality of living, as well as  
15 leading to potential public health and safety  
16 issues." You see that sentence?

17 A Yes, I do.

18 Q What potential public health and safety  
19 issues could arise because of outages?

20 A Certainly to the extent that public  
21 safety systems such as traffic lights, to choose  
22 an example, are affected by an outage. That would  
23 be an example of a public safety issue.

24 Every attempt is made to keep critical  
25 systems online, and I realize that, but in

1 situations where we have loss of power over  
2 specific areas or widespread areas, you can have  
3 situations where, for example, street lighting is  
4 lost and you have safety implications with that.

5 Those are two examples --

6 Q And would it also perhaps affect law  
7 enforcement and hospitals, things of that nature?

8 A To the extent that the outage provisions  
9 which generally try to keep essential public  
10 facilities online, even during an outage, to the  
11 extent that those fail, those facilities could be  
12 affected, as well.

13 Q Now, during your cross-examination by  
14 the counsel for the City, you discussed what I had  
15 known as the San Francisco operating criterion.  
16 Is it correct that that's the operating criterion  
17 that arose with PG&E and has been sort of the  
18 guidance or how to operate the system for many  
19 years?

20 A Well, there is a San Francisco operating  
21 criterion that is as you describe, yes.

22 Q Okay. In the staff's testimony they  
23 refer to CalISO planning requirements. And I  
24 believe you've also referred to it, what is the  
25 major unit goes down, a line goes down.



1           Is there a relationship between the  
2           operating criterion and the planning criterion?

3           A     You know, I should qualify this, as I  
4           stated previously, the current version of the  
5           documents or the criteria that we used to always  
6           refer to as the San Francisco planning criteria,  
7           and the San Francisco operating criterion, are not  
8           available.

9           So I don't know the specific documents  
10          that are being relied on now. There is a  
11          relationship, although in general the planning  
12          criteria are intended, in my understanding, to  
13          provide the basis for transmission planning in  
14          order to insure that the City and the grid, as a  
15          whole, that the integrity are maintained.

16          Whereas the operating criterion in the  
17          past was largely aimed at maintaining specific  
18          levels of load in the City up and running under  
19          conditions which could include disturbances on the  
20          transmission system outside of San Francisco,  
21          outside of actually the Peninsula system.  
22          Widespread disturbances, for example.

23          And that was the intent there. So that  
24          in some respects they actually had very different  
25          goals or aims. One was, as it says, a planning

1 basis for transmission. The other was how to  
2 operate the system in such a way as to maintain  
3 load under certain conditions.

4 MR. RAMO: Thank you. I'm done.

5 HEARING OFFICER VALKOSKY: Thank you,  
6 Mr. Ramo. Redirect, Mr. Carroll?

7 MR. CARROLL: No redirect.

8 HEARING OFFICER VALKOSKY: Questions?

9 MR. SMITH: Yeah, just a couple, may  
10 seem a little bit basic, but if you could clarify  
11 for the record, and maybe for my own education.

12 Mirant will operate this plant as a  
13 merchant plant, that's the intent, correct?

14 MR. McCLARY: Actually, you know, I  
15 think that's been the intent, and would be the  
16 desire of Mirant. But I really can't speak to how  
17 Mirant ultimately will operate it.

18 As I said, actually I would anticipate  
19 that they would operate under either regulatory  
20 restrictions or contractual agreements that will  
21 differ somewhat from what I would call a merchant  
22 plant, per se.

23 MR. SMITH: Okay. And in either case,  
24 the price they get for -- they would get for their  
25 electricity, dollars per kilowatt hour, is going

1 to be the same whether they are the sole generator  
2 in San Francisco, the only power plant in San  
3 Francisco, or whether they represent 50 percent of  
4 the generation in San Francisco, correct?

5 MR. McCLARY: Should be that that would  
6 be the intent of the regulatory regime, that there  
7 not be a price advantage that they get by virtue  
8 of their location.

9 So, yeah, that would be the goal of the  
10 contracts or regulatory restrictions imposed on  
11 them, that they would get the same price even  
12 though they were located in San Francisco.

13 MR. SMITH: And given that, what bearing  
14 does that have on the estimated savings from  
15 transmission losses that you calculated, or that  
16 you testified to, if Mirant was receiving "x"  
17 dollars per kilowatt hour versus "x" plus \$1 per  
18 kilowatt hour, would the savings that you  
19 estimated in your testimony change? Due to  
20 transmission losses to the Bay Area or the  
21 Peninsula, the City.

22 MR. McCLARY: If I understand what  
23 you're asking, I do not think that they would,  
24 since the losses -- I mean to put it in a very  
25 simple, kind of a simplistic example of how the

1 losses, as I see it, are calculated, when they do  
2 the rate-setting process.

3 What they basically are doing is saying  
4 you had to buy "x" plus 6 percent kilowatt hours  
5 of electricity to supply "x" kilowatt hours of  
6 electricity to your customers. The 6 percent is  
7 losses.

8 Now, if you were able, because we had  
9 plants in places located closer to load, such as  
10 Unit 7, to reduce that 6 down to 5, well, now you  
11 look at how much PG&E had to spend to buy that  
12 electricity in order to supply "x" kilowatt hours  
13 to its customers. It's only "x" plus 5, not "x"  
14 plus 6.

15 MR. SMITH: So whatever price Mirant  
16 would receive for their electricity is irrelevant  
17 to the dollar value of savings due to transmission  
18 line loss reductions by locating a plant closer to  
19 the load?

20 MR. McCLARY: That's right. That's  
21 right.

22 MR. SMITH: Okay. And explain to me the  
23 relevance of the debate regarding market power.  
24 Given what you've just stated, what is the  
25 relevance of the debate regarding market power to

1 San Francisco?

2 MR. McCLARY: Well, the --

3 MR. SMITH: In other -- let me re-ask  
4 that. In the previous line of questioning there  
5 was implications that there is greater market  
6 power, Mirant could exercise greater market power  
7 if they represent a higher percentage of  
8 generation in San Francisco.

9 The converse would be they could  
10 exercise less market power if they were a lower  
11 percentage, if they represent a lower percentage  
12 of generation in San Francisco.

13 But given what you've just said, there's  
14 something I'm missing. What is the relevance of  
15 that whole debate of market power to the City of  
16 San Francisco?

17 MR. McCLARY: Well, the situation is  
18 this. The concern over market power comes in a  
19 situation where you have a market area that  
20 there's a limitation in how many suppliers can  
21 reach it. And the concern in San Francisco is  
22 that with the limited -- you know, you have  
23 transmission substantial enough, but there is a  
24 limitation on how much power you can bring into  
25 the City.

1           And if you had what you could call an  
2     unfettered market, I suppose, or a market without  
3     controls on local generation of some sort of  
4     other, limits, caps, whatever it might be, that in  
5     an area like San Francisco, without rules  
6     governing how the generators can operate, a  
7     dominant owner of generation within that market  
8     area could dominate it because other competitors  
9     can't get in.

10           And this, if it were really, you know,  
11     completely open, this, I think, would be a  
12     legitimate concern, and is a legitimate concern  
13     within San Francisco.

14           My point is that what I premised my  
15     testimony on is that whether it be by market rules  
16     that are imposed by the Federal Energy Regulatory  
17     Commission or perhaps the CPUC, or by contractual  
18     arrangements presumably approved by one or both of  
19     those agencies, that any potential for exercising  
20     that kind of control in a market will, in fact, be  
21     limited. So that a company like Mirant won't have  
22     an advantage by virtue of being in that area.

23           I guess what I'm saying is I don't want  
24     to say that market power should not be an issue,  
25     or is not an issue. It's that market power is an

1 issue that's being addressed and can be  
2 controlled. And, in fact, is, today, addressed  
3 because we have that exact situation now.

4 We have two owners of most of the  
5 generation in San Francisco, PG&E and Mirant. And  
6 their plants are under contracts that prohibit  
7 them from operating when they're not supposed to  
8 in order to take advantage of their market  
9 position.

10 And the market rules currently are set  
11 in such a way that they don't realize a higher  
12 price by virtue of being in this smaller  
13 constrained market.

14 San Francisco is recognized as a  
15 constrained area, but not as a separate market  
16 area, separate zone.

17 MR. SMITH: Okay. Under the current  
18 market regime in California, would you expect San  
19 Franciscans to pay more for electricity than  
20 people in Oakland, people in Fresno?

21 MR. McCLARY: No. The wholesale price  
22 would be the same in all three locations.

23 MR. SMITH: And if Mirant represented,  
24 regardless of what percentage of generation in the  
25 City they represent to the potential construction

1 of Potrero 7, it's not going to affect what the  
2 people in San Francisco pay for electricity at  
3 that percentage of generation?

4 MR. McCLARY: Right. It won't affect  
5 what the people in San Francisco pay. The market  
6 power concern would come to the extent that there  
7 was a concern that a generator in San Francisco  
8 would, for example, withhold generation from the  
9 market until the transmission lines into San  
10 Francisco filled up, became congested.

11 Now, in that instance, under the current  
12 system there would be payments made to generators  
13 within San Francisco to encourage to generate  
14 extra payments in order to relieve the constrained  
15 transmission lines.

16 Currently they don't get those extra  
17 payments because of the system. And it is my  
18 opinion that another plant -- no plant operating  
19 in San Francisco, as long as it's a transmission-  
20 constrained area, is going to be allowed to  
21 somehow game that system to take advantage of a  
22 difference in prices that they would receive in  
23 San Francisco.

24 In either case, the citizens in San  
25 Francisco would -- the effects of that would be



1 spread out over all of PG&E ratepayers. So, in  
2 San Francisco, citizens will be paying the same  
3 price as in other parts of PG&E.

4 MR. SMITH: Thank you.

5 HEARING OFFICER VALKOSKY: Anything else  
6 for Mr. McClary? All right, thank you, sir.

7 MR. CARROLL: At this time we would move  
8 the admission of exhibit 68, which is Mr.  
9 McClary's prepared testimony, including the  
10 attachments.

11 HEARING OFFICER VALKOSKY: Is there  
12 objection?

13 MR. RAMO: No objection.

14 MR. WESTERFIELD: No objection.

15 HEARING OFFICER VALKOSKY: No objection?  
16 Okay. Exhibit 68 is admitted.

17 Let's go off the record a second,  
18 please.

19 (Off the record.)

20 MS. MINOR: Can we take five minutes?

21 PRESIDING MEMBER PERNELL: Why don't we  
22 do that, five minutes for personal activity.

23 (Brief recess.)

24 HEARING OFFICER VALKOSKY: Okay,  
25 Mr. Westerfield.

1           MR. WESTERFIELD: Thank you, Mr.  
2           Valkosky. At this time staff would like to call  
3           Mark Hesters of the CEC and Johan Galleberg of the  
4           California ISO, who were not here this morning  
5           when we made our introductions, but they will be  
6           testifying on behalf of CEC Staff on local system  
7           effects.

8           HEARING OFFICER VALKOSKY: And I take it  
9           they will testify as a panel?

10          MR. WESTERFIELD: They will.

11          HEARING OFFICER VALKOSKY: All right, if  
12          you could swear the witnesses, please.

13          Whereupon,

14          MARK HESTERS and JOHAN GALLEBERG  
15          were called as witnesses herein, and after first  
16          having been duly sworn, were examined and  
17          testified as follows:

18          MR. WESTERFIELD: All right, I'm going  
19          to, if I may, just sort of briefly go over the  
20          qualifications of each witness, starting with Mr.  
21          Galleberg. And then after run through the  
22          qualifications of Mr. Hesters briefly, Mr. Hesters  
23          will present the summary of the staff's  
24          supplemental testimony, written testimony.

25          //

## 1 DIRECT EXAMINATION

2 BY MR. WESTERFIELD:

3 Q So, Mr. Galleberg, would you please,  
4 welcome back, and again state your employer and  
5 your position with the ISO.

6 MR. GALLEBERG: Yes, I'm currently a  
7 Senior Grid Planning Engineer with the California  
8 Independent System Operator, ISO.

9 MR. WESTERFIELD: And did you assist in  
10 the preparation of staff's supplemental LSE  
11 testimony?

12 MR. GALLEBERG: Yes, I did.

13 MR. WESTERFIELD: And as far as you're  
14 concerned, is it true and accurate?

15 MR. GALLEBERG: Yes, it is.

16 MR. WESTERFIELD: And is it still your  
17 testimony today?

18 MR. GALLEBERG: Yes.

19 MR. WESTERFIELD: Mr. Hesters, could you  
20 state your position again, please, with the CEC?

21 MR. HESTERS: I'm an Associate  
22 Electrical Engineer with the California Energy  
23 Commission.

24 MR. WESTERFIELD: And did you assist in  
25 the preparation of staff's testimony?

1 MR. HESTERS: Yes, I did.

2 MR. WESTERFIELD: And is it still true  
3 and accurate to the best of your knowledge?

4 MR. HESTERS: Yes.

5 MR. WESTERFIELD: And is it still your  
6 testimony today?

7 MR. HESTERS: Yes.

8 MR. WESTERFIELD: Would you then please  
9 summarize the testimony for the Committee, please.

10 MR. HESTERS: I have a brief summary of  
11 the testimony and then I sort of would like to run  
12 over some of the major additions that we made  
13 from, changes that we made from our March 2002  
14 testimony to our December 2002 testimony.

15 So briefly we found that the proposed  
16 project would have the following effects on the  
17 California grid. Potrero 7 would substantially  
18 reduce transmission system losses. Potrero 7  
19 could allow the shutdown of Hunter's Point 4.

20 Potrero Unit 7 would significantly  
21 reduce the need to import power to the San  
22 Francisco Peninsula. This would reduce stress on  
23 transmission facilities that are heavily loaded  
24 today due to the imbalance that exists between  
25 load and generation on the peninsula.

1           If the Hunter's Point Power Plant, which  
2           is the entire plant, units 1 through 4, is shut  
3           down, with the addition of Potrero 7, no planned  
4           transmission facilities, including the Jefferson-  
5           Martin 230 kV transmission line would be deferred  
6           by the addition of Potrero 7.

7           Potrero 7's additional generation would  
8           provide greater flexibility within the Greater Bay  
9           Area for the California ISO, Pacific Gas and  
10          Electric, and generation owners to schedule  
11          maintenance on transmission facilities and  
12          generating units.

13          Also during periods of high demand,  
14          Potrero 7 would provide critically needed real and  
15          reactive power margin that will improve the system  
16          operator's ability to manage adverse and  
17          unexpected conditions.

18          And significant changes in the testimony  
19          from March to December. First of all, if planned  
20          transmission upgrades are made, and if the  
21          California ISO can obtain a reasonable reliability  
22          must run contract with Mirant for Potrero 7, the  
23          CalISO would not to extend the existing  
24          reliability must run contract for the Hunter's  
25          Point 4 Power Plant once Potrero Unit 7 comes

1 online.

2 With federal approval this would allow  
3 PG&E to commence the shutdown of Hunter's Point 4  
4 once Potrero Unit 7 comes online.

5 We also -- another change was the  
6 complete outage of Unit 7 is still considered a  
7 single contingency for planning purposes, for  
8 reliability planning. The reasons have changed,  
9 and those were discussed in the CalISO's power  
10 plant reliability testimony.

11 The other major change is that for  
12 reliability planning purposes the San Francisco  
13 area, with the proposed project, Potrero Unit 7,  
14 and without Hunter's Point, the entire power  
15 plant, would have 207 megawatts more capacity for  
16 reliability planning purposes than it would if it  
17 didn't have Potrero 7 and didn't have Hunter's  
18 Point, the entire power plant.

19 Just as a rough estimate, assuming about  
20 50 megawatts of load growth per year in San  
21 Francisco, that could defer the need for further  
22 resources beyond those, or further transmission  
23 additions beyond those already planned by about  
24 four years.

25 We also added three loss analysis

1 sensitivities. And that's it.

2 I also wanted to apologize for the  
3 tables. WORD can sometimes be mystifying.

4 MR. WESTERFIELD: All right, and then I  
5 have really only one other question on direct for  
6 Mr. Galleberg. There's obviously been some  
7 concern, perhaps anxiety, on the part of many  
8 parties as to the situation in San Francisco  
9 should Unit 7 come online in terms of market  
10 power.

11 And so my question to you is will the  
12 ISO, or would the ISO plan to put in place  
13 measures to mitigate market power should Unit 7  
14 become the principal generating source in the  
15 City?

16 MR. GALLEBERG: As part of our market  
17 redesign, or MDO2, as it called, market power  
18 should be mitigated through this process. This is  
19 not specific to the peninsula or any other  
20 specific location, but this should mitigate more  
21 of a local market power in California under the  
22 CalISO control.

23 MR. WESTERFIELD: With that we have no  
24 more questions on direct.

25 HEARING OFFICER VALKOSKY: Mr.

1 Galleberg, has this market redesign been  
2 implemented, or is it going to be?

3 MR. GALLEBERG: The first phase has been  
4 implemented; I think it was implemented on October  
5 30th this year. There are more phases to  
6 implement. I think the next phase is scheduled to  
7 come, take effect the next year. And then I think  
8 there are two more phases. So by mid summer or  
9 around in 2004 sometime then the whole MDO2 should  
10 have taken effect.

11 HEARING OFFICER VALKOSKY: Your joint  
12 testimony indicates Hunter's Point could be shut  
13 down if the ISO gets a reasonable contract with  
14 Mirant for Unit 7. What's involved in getting a  
15 quote, "reasonable contract"?

16 MR. GALLEBERG: It has several aspects.  
17 Obviously cost is one major issue. It needs to be  
18 at a reasonable cost. And to assess what is a  
19 reasonable cost, we would have to look at also  
20 alternatives to Potrero 7 to provide local  
21 reliability service.

22 That's the major aspects in what's a  
23 reasonable contract. It also -- the contract  
24 would also say how many years. If it's an annual  
25 contract, or if it spans over many years.



1 Although this has not been negotiated, so we don't  
2 have the answer to -- or we don't have a contract  
3 in place today.

4 HEARING OFFICER VALKOSKY: Okay, so then  
5 I take it that if the ISO will decide that  
6 Mirant's terms were unreasonable, is that correct,  
7 and not sign an RMR contract?

8 MR. GALLEBERG: If we think their terms  
9 are unreasonable, yes. And we have other ways of  
10 getting our reliability needs covered, then we  
11 would pick that other alternative, yes.

12 HEARING OFFICER VALKOSKY: Okay, now if  
13 the ISO determined that Mirant's demands for  
14 contract provisions were unreasonable, then I take  
15 it Hunter's Point would continue to run, is that a  
16 correct assumption?

17 MR. GALLEBERG: Theoretically, yes.  
18 But, I think the chances for getting a cheaper and  
19 better RMR contract with Potrero 7 is way higher  
20 than what we have with Hunter's Point today.

21 HEARING OFFICER VALKOSKY: Okay. And,  
22 again, I'm not sure whether Mr. Galleberg or Mr.  
23 Hesters, but earlier we engendered a lot of  
24 discussion on one of the additions to your  
25 testimony involving the \$55- to \$80-million in

1 savings if the generator passes it on to the  
2 ratepayer.

3 I would like an explanation of what you  
4 believe that phrase means. And how we should  
5 interpret it.

6 MR. GALLEBERG: I really think there is  
7 two sides to this. First of all, as this market  
8 works today, the generators pays for their losses  
9 in the system. So a generator that is located far  
10 away from the load would have to pay more in  
11 losses since there will be more losses associated  
12 with its generation.

13 We use a generation meter multiplier  
14 today, or a GMM, basically it factors these losses  
15 into the price of power.

16 So, a generator that is located close to  
17 the load would have to -- will make the plant more  
18 efficient, you can call it, because it would have  
19 to pay less in losses as compared to a generator  
20 that is located far away from the load.

21 So this should enable a generator that  
22 is close to the load, in this case Potrero 7, to  
23 bid at a lower price into the market because its  
24 operating cost is lower, as compared to a  
25 generator that is located far away from the load.

1 HEARING OFFICER VALKOSKY: Okay, so does  
2 this or does it not represent additional money in  
3 the pocket of the generator?

4 MR. GALLEBERG: No. We would like to  
5 call it like a system benefit. It's really a  
6 benefit to the generators and also it should bring  
7 the price of wholesale power down, since the  
8 generators located close to the load can bid at a  
9 lower price into the market.

10 HEARING OFFICER VALKOSKY: Okay, but the  
11 price of wholesale power systemwide, correct?

12 MR. GALLEBERG: It should go down, yes.

13 HEARING OFFICER VALKOSKY: Right.

14 PRESIDING MEMBER PERNELL: Will that  
15 equate into a lower electrical rates for the  
16 customers?

17 MR. GALLEBERG: That is really up to the  
18 PUC to set the retail rates. But lower wholesale  
19 prices should lead to lower retail rates, yes.

20 PRESIDING MEMBER PERNELL: But it  
21 doesn't necessarily lead to lower rates?

22 MR. GALLEBERG: If the savings is not  
23 passed on to the retail rate, then the customer  
24 wouldn't see any difference. But if the prices  
25 are reflected on retail rate, yes, it should mean

1 lower prices.

2 PRESIDING MEMBER PERNELL: There's a  
3 little bit of -- just help me on this question.  
4 If the savings are not passed on to the customer  
5 but there's a pot of money there, what happens to  
6 it? I think goes to Mr. Valkosky's question.  
7 Where do those savings go? And you said it's a  
8 systemwide because of wholesale prices are lower,  
9 and so we can assume that wholesale prices are  
10 lower, the price to the retail customer is fixed  
11 unless someone changes it.

12 So you got a lower wholesale price; the  
13 customer price is fixed; no one's changing it.  
14 What happens to the money?

15 MR. GALLEBERG: And then new generation  
16 replaces the most expensive current generation.  
17 And since there will be less generation from  
18 existing units, the savings or the -- how should I  
19 say -- the reduced losses associated with this  
20 generation is a savings to the customers on the  
21 wholesale level.

22 PRESIDING MEMBER PERNELL: Well, I can  
23 see some environmental benefit to replacing old  
24 generation. And so that is a benefit to the end  
25 user of the community, but I'm not following the

1 money trail, if I could be simplistic here.

2 MR. GALLEBERG: I mean there will be  
3 less losses in the system because more generation  
4 will be located close to the load.

5 PRESIDING MEMBER PERNELL: Right.

6 MR. GALLEBERG: And this would lead to  
7 the most expensive generators in the system today  
8 will not operate. So by replacing this old or  
9 expensive generation with new cheaper generation  
10 leads to a lower level, a lower cost on the  
11 wholesale level.

12 HEARING OFFICER VALKOSKY: Right, but  
13 that --

14 MR. GALLEBERG: So it's a savings to  
15 generators that should be passed on to the retail  
16 customer.

17 HEARING OFFICER VALKOSKY: Okay, but  
18 that savings does not get passed on unless the PUC  
19 or another ratemaking body so declares, is that  
20 correct?

21 MR. GALLEBERG: Yes, that's correct.

22 PRESIDING MEMBER PERNELL: Right. So is  
23 there a mechanism in place that would  
24 automatically trigger a request for the PUC to  
25 change the rates?

1 MR. GALLEBERG: No, I'm not aware of  
2 that. I shouldn't speak for this, but I would  
3 think PUC is looking at what the cost of the  
4 wholesale level is, and then try to reflect that  
5 in their -- on the retail level.

6 But that's outside my area.

7 PRESIDING MEMBER PERNELL: All right,  
8 thank you.

9 HEARING OFFICER VALKOSKY: Last  
10 question. Are you familiar with Ms. Garbesi's  
11 testimony?

12 MR. GALLEBERG: Which one is that?

13 HEARING OFFICER VALKOSKY: Tentatively  
14 identified as exhibit 70.

15 MR. GALLEBERG: Yes, I have read through  
16 it.

17 HEARING OFFICER VALKOSKY: Okay, a  
18 portion of that testimony suggests that inverters  
19 are capable of providing reactive power to the  
20 system. Are you familiar with that portion of the  
21 testimony?

22 MR. GALLEBERG: Yes, yes.

23 HEARING OFFICER VALKOSKY: Do you have  
24 an opinion as to whether the idea is feasible?

25 MR. GALLEBERG: Well, I agree very much

1       that it can provide reactive power.

2               HEARING OFFICER VALKOSKY:   Would it  
3       provide reactive power -- is it likely to provide  
4       reactive power in quantity sufficient to benefit  
5       the system?

6               MR. GALLEBERG:   I think the magnitude is  
7       the question here.   I don't doubt that it will  
8       provide reactive power, but as Potrero 7 is  
9       proposed, I think it has the capability of  
10      providing up to 400 megavar of reactive power.

11              And an inverter technology, it needs to  
12      be huge to provide the same benefit.

13              HEARING OFFICER VALKOSKY:   Okay, so your  
14      opinion is that likely that the inverter  
15      technology would be distributed in the near term,  
16      say within the next ten years, to provide the same  
17      400 megavars of reactive power as would Potrero 7?

18              MR. GALLEBERG:   That would be a case,  
19      but I don't think that is likely.   Not of the same  
20      magnitude.

21              HEARING OFFICER VALKOSKY:   Okay, thank  
22      you.

23              MR. SMITH:   Mr. Galleberg, you said that  
24      generators pay for the losses, the line losses.  
25      And that's reflected in the price they bid into

1 the market.

2 You have to actually verbalize  
3 responses. She can't record a nod.

4 MR. GALLEBERG: Oh, yeah.

5 MR. SMITH: In its location, proposed  
6 location, Potrero 7, help me understand over what  
7 stretch of line would Mirant pay for a  
8 transmission loss?

9 MR. GALLEBERG: If the power is sold to  
10 the City of San Francisco it would be the very few  
11 lines within the City.

12 MR. SMITH: I beg your pardon, if the  
13 power is sold what?

14 MR. GALLEBERG: To the City, San  
15 Francisco. I mean if it's consumed locally where  
16 it's produced, the losses would be very small on  
17 the transmission level.

18 MR. SMITH: Okay. So it's at the  
19 transmission level --

20 MR. GALLEBERG: Yeah, we're dealing --

21 MR. SMITH: -- that they pay for losses?

22 MR. GALLEBERG: -- we're dealing only on  
23 the transmission level. Losses on the  
24 distribution level, I believe, would be in  
25 addition.



1           MR. SMITH: So, again, given its current  
2 proposed location, describe the stretch of line  
3 that it would be, if it were all consumed in San  
4 Francisco.

5           MR. GALLEBERG: You mean which lines  
6 or --

7           MR. SMITH: Yeah, I mean describe the  
8 lines that it would be responsible for paying  
9 losses over.

10          MR. GALLEBERG: Well, the power -- or  
11 the plant would be at the Potrero substation, and  
12 if the load, lots of the load is located in Larkin  
13 substation, for instance, Mission substation,  
14 several substations within the City, so it would  
15 be on those lines between Potrero substation and  
16 those load substations.

17          MR. SMITH: Relatively short distances?

18          MR. GALLEBERG: Very short distances,  
19 yes.

20          MR. SMITH: The losses would be very  
21 very minor?

22          MR. GALLEBERG: Yes, small.

23          MR. SMITH: Therefore you might expect  
24 whatever price they would pay, it might be  
25 reflected in their bid for electricity into the

1 system would be very minor, also?

2 MR. GALLEBERG: Yes, this should lead to  
3 an operating savings to Potrero 7, which should  
4 enable them to bid lower into the market.

5 MR. SMITH: All right. And you might,  
6 the same you would expect if they were under an  
7 RMR contract?

8 MR. GALLEBERG: Yes. That doesn't  
9 affect the loss.

10 MR. SMITH: Same logic, they're putting  
11 electricity, consuming it locally?

12 MR. GALLEBERG: Yes.

13 MR. SMITH: Okay. Could -- you briefly  
14 touched on -- you actually didn't touch on them,  
15 you just described the phases of market mitigation  
16 that's being implemented.

17 Could you explain what specifically the  
18 types of mitigation measures that the ISO has  
19 implemented?

20 MR. GALLEBERG: I can describe it  
21 briefly, I'm not the person involved in it. And I  
22 also know this is very much work in progress.

23 But on a very high level I think what  
24 they do is to look at bids above a certain level;  
25 if the bid is over this threshold I think it's

1 about \$92 per megawatt hour today.

2 Then it goes through some kind of  
3 screening process; they look at it, scrutinize the  
4 bid more and see if it has some justification for  
5 this high bid. And if there's no justification  
6 then it could be set lower. That's my  
7 understanding of it.

8 MR. SMITH: Do you have an opinion on  
9 how marginal locational pricing might affect  
10 market power?

11 MR. GALLEBERG: This is also another  
12 area in the MDO2 that is work in progress. But  
13 the big picture would be today we have three zones  
14 in California. We have north of Path 15; and we  
15 have south of Path 15; and we have ZB26, or the  
16 area in between.

17 And locational marginal pricing would  
18 basically be to split these three zones up to many  
19 many -- or many trading areas. Basically one  
20 substation will be its separate zone.

21 So then if you have congestion in the  
22 system this will be reflected in the -- price on  
23 each substation.

24 MR. SMITH: So the City of San Francisco  
25 might have several --

1 MR. GALLEBERG: Yes, I --

2 MR. SMITH: -- or the peninsula may have  
3 several --

4 MR. GALLEBERG: Of those, yes. This is  
5 the model from PJMISO, the ISO in Pennsylvania,  
6 New Jersey and Maryland. I think that's kind of  
7 one of the ISOs that has a good way of dealing  
8 with congestion, that ISO's looking to adopt.

9 MR. SMITH: Given the current proposal  
10 to build a single large power plant at Potrero 7,  
11 how does that scheme affect the market power that  
12 might be exerted?

13 MR. GALLEBERG: Well, more generation on  
14 the peninsula should lead to lower prices. The  
15 concern that has been brought up here is most of  
16 the generation will be owned by one owner. And  
17 we'll have to rely on this mitigation of local  
18 market power that will, or is part of the MD02,  
19 the market redesign.

20 So it should be mitigated if this new  
21 mechanism works out.

22 MR. SMITH: You don't have the  
23 information today to describe how --

24 MR. GALLEBERG: No, because it's --

25 MR. SMITH: -- how it would be

1 mitigated?

2 MR. GALLEBERG: It depends, again, how  
3 Mirant is planning to sell its power. If they go  
4 into some kind of contract, then the price would  
5 be set from the contract. If they plan to sell  
6 the power on the open market, then they will be  
7 more exposed to market power mitigation if that  
8 occurs.

9 MR. SMITH: Last question is are you  
10 currently, is the ISO currently negotiating with  
11 Mirant for an RMR? Or is the text of the  
12 testimony just speculation if they were to, if,  
13 if, if this, if that?

14 MR. GALLEBERG: Yeah, that's -- it has  
15 not taken place, as far as I know. It's more  
16 speculation, yes.

17 MR. SMITH: Has Mirant indicated to the  
18 ISO that they intend to begin negotiations for an  
19 RMR?

20 MR. GALLEBERG: I'm not involved in  
21 that. And I'm not aware of it. But Mirant can  
22 correct me later if I'm wrong, but I'm not aware  
23 of any discussions with the ISO and Mirant for an  
24 RMR contract for Potrero 7.

25 MR. SMITH: Thank you.

1           HEARING OFFICER VALKOSKY: I'd just like  
2     to, before we get to Mr. Carroll, Mr. McClary  
3     states in his testimony, quote, "By replacing the  
4     highly unreliable Hunter's Point Power Plant with  
5     a state of the art facility, and increasing the  
6     total supply, Potrero Unit 7 would substantially  
7     decrease probability of power supply shortages in  
8     San Francisco."

9           Do you agree with that statement, even  
10    given the ISO's designation of Unit 7 as a single  
11    contingency plant?

12          MR. GALLEBERG: Yes, I do agree with  
13    that statement. I mean Potrero 7 would replace  
14    the next, or the single largest unit today, which  
15    is Potrero 3. So it would provide 207 megawatt of  
16    new load serving capability.

17          HEARING OFFICER VALKOSKY: Thank you.

18          MR. GARCIA: With regards to  
19    transmission losses, could you quantify what the  
20    transmission losses would be from say the Potrero  
21    Plant versus maybe a plant out in the central  
22    valley? Are we talking quarter percent versus 2,  
23    3 percent?

24          MR. GALLEBERG: I haven't done any -- I  
25    didn't do those studies, so I'm not sure. But I

1 think the average losses in the system today is  
2 about 3, 4 percent on the transmission level. But  
3 I can't tell you exact numbers for that.

4 MR. GARCIA: So if we assume that the  
5 losses are average, 3 or 4 percent, from a plant  
6 out say in the middle of the central valley, what  
7 order of magnitude are we talking about for the  
8 Potrero Plant? A tenth of that, maybe?

9 MR. GALLEBERG: Yeah, maybe, or maybe a  
10 percent, up to a percent, I'm not really sure.

11 MR. GARCIA: Okay.

12 HEARING OFFICER VALKOSKY: Mr. Carroll.

13 MR. CARROLL: Just one further  
14 clarifying question on the phrase that's been  
15 added in a couple of places with respect to the  
16 system losses.

17 CROSS-EXAMINATION

18 BY MR. CARROLL:

19 Q Looking, for example, at numbered  
20 paragraph 1 on summary of conclusions on page 6.6-  
21 2. Some might read this to mean that there is a  
22 pot of money consisting of \$55- to \$80-million  
23 that Mirant has discretion to either keep for  
24 itself or pass on to ratepayers.

25 Would that be an appropriate reading of

1 this phrase?

2 MR. GALLEBERG: No, it would not.

3 That's not a savings to Mirant. It's a savings  
4 from reduced generation other places in  
5 California, or wherever the power is bought.

6 MR. CARROLL: Okay, thank you. I have  
7 nothing further.

8 HEARING OFFICER VALKOSKY: Ms. Minor.

9 CROSS-EXAMINATION

10 BY MS. MINOR:

11 Q Good afternoon.

12 MR. GALLEBERG: Good afternoon.

13 MS. MINOR: Welcome back.

14 MR. GALLEBERG: Thank you.

15 MS. MINOR: I didn't know I was going to  
16 see you again so quickly. Not that I'm  
17 complaining, I'm not.

18 MR. GALLEBERG: Thanks.

19 MS. MINOR: Most of my questions have  
20 been asked, so I'm going to try to do this very  
21 quickly. If you would turn to page 6.6-1,  
22 footnote 3.

23 This is the footnote referenced with the  
24 assumption that Unit 7 will be licensed and in  
25 service in 2005.



1                   What is the basis for that assumption?

2                   MR. GALLEBERG: That's the proposed date  
3 as we know it from Mirant.

4                   MS. MINOR: Based upon the pace of these  
5 hearings, did you consider reevaluating that data?

6                   MR. GALLEBERG: I don't think I would  
7 reevaluate until I've heard some updated number  
8 from the developer.

9                   MS. MINOR: Have you recently contacted  
10 Mirant to ask for an updated in-service date?

11                   MR. GALLEBERG: No.

12                   MR. HESTERS: Can I respond to something  
13 on that very quickly?

14                   MS. MINOR: Yes.

15                   MR. HESTERS: The in-service date for  
16 most of this testimony affects the loss analysis  
17 because that's the generation of the load flow  
18 case that we used. And so the load levels that  
19 were assumed in that case were for 2005, from a  
20 2000 -- I don't have the date of the forecast --  
21 and rather than think of it as a specific date,  
22 it's more of an assumed load level for the study.

23                   And the loads have been -- the load  
24 forecasts have been changed because with the  
25 economy load forecasts change all the time. And

1       that's really where the 2005 has an impact in this  
2       testimony.

3               Does that help?

4               MS. MINOR:  It does.  What is the time  
5       range for the load forecast that you're referring  
6       to?

7               MR. HESTERS:  Let me go to the exact  
8       page.  We used the same load flow case that was  
9       used in the, it was the original -- trying to get  
10      there --

11              MR. RAMO:  Page 3 of your testimony.

12              MR. HESTERS:  It's actually on the  
13      losses.  That's describing the load level, the  
14      load forecast.

15              PRESIDING MEMBER PERNELL:  Could you  
16      tell us what page you're on?  Do you have it  
17      there?

18              MR. HESTERS:  Sorry, I was trying to  
19      find it.  Yeah.  Actually I think page 3 is the  
20      place where we discuss what the load forecasts  
21      were.  It was a 2000 PG&E forecast, PG&E's  
22      December 2000.  Page 3.

23              It's in the first paragraph after  
24      setting and area resources.

25              MS. MINOR:  Yes, I see it.

1 HEARING OFFICER VALKOSKY: Excuse me,  
2 Mr. Hesters, you've got 2005. If that were  
3 changed to 2006 or 2007, for example, would any of  
4 your conclusions or analysis be substantially  
5 different?

6 MR. HESTERS: I don't think that would  
7 have a significant impact on the losses.

8 MS. MINOR: Would it have -- I'm sorry,  
9 Mr. Valkosky, are you done?

10 HEARING OFFICER VALKOSKY: No, please,  
11 please --

12 MS. MINOR: Would it have any impact on  
13 the question of whether -- of additional  
14 transmission projects or the deferral of  
15 transmission projects?

16 MR. HESTERS: No, because I mean the  
17 biggest transmission project we're talking about  
18 is the Jefferson-Martin transmission line. And we  
19 know this project doesn't have an effect on that  
20 project.

21 MS. MINOR: The proposed in-service date  
22 for Jefferson-Martin was, in fact, changed in your  
23 testimony. Let me see if I can find that.

24 MR. HESTERS: It's on page 10.

25 MS. MINOR: Your original testimony

1 proposed the summer of 2005. It was changed to  
2 2006. What was the basis for that change? I'm  
3 looking at page -- do you see it on page 6.6-10?

4 MR. GALLEBERG: I think the basis for  
5 that was I think it's scheduled to be operational  
6 September 2005, which means before summer 2006.  
7 And summer season is the most critical, so it  
8 would be a better characterization to say 2006  
9 than 2005.

10 MS. MINOR: Okay, so this change means  
11 that you anticipate Jefferson-Martin will be in  
12 service sometime in 2005, available for the peak  
13 load in 2006?

14 MR. GALLEBERG: I believe that's how the  
15 schedule is today, yes.

16 MS. MINOR: Okay. If I could direct you  
17 to page 9 of your testimony. The very last  
18 sentence in what is the first full paragraph.  
19 This is the sentence that makes the point that for  
20 planning purposes after the construction and in-  
21 service of Potrero Unit 7, for planning purposes  
22 the amount of megawatts available is reduced by 8,  
23 is that correct?

24 MR. GALLEBERG: That's correct, if all  
25 of the Hunter's Point units are retired after

1 Potrero 7 comes online.

2 MS. MINOR: And I believe we discussed  
3 this during ISO's reliability testimony, but would  
4 you again clarify how you arrived at the 8  
5 megawatt reduction once Unit 7 comes online?

6 MR. GALLEBERG: Well, before Unit 7  
7 comes on line you have all the generation that is  
8 listed in the table there, in the table with  
9 editing problems.

10 MS. MINOR: Yes, um-hum.

11 (Laughter.)

12 MR. GALLEBERG: And then we will remove,  
13 according to the planning criteria, remove the  
14 single largest unit, which is Potrero 3, or 207  
15 megawatts, and one of the CTs, --

16 MS. MINOR: Yes.

17 MR. GALLEBERG: -- so 52 megawatts  
18 there.

19 MS. MINOR: Um-hum.

20 MR. GALLEBERG: The rest of the  
21 generation in the table will be assumed to be  
22 available for planning studies before the project  
23 comes online.

24 After Potrero 7 comes online, you will  
25 remove the single largest unit, which is Potrero

1       7. And then you also remove Hunter's Point  
2       generation, since we're assuming that Hunter's  
3       Point will be shut down after Potrero 7 comes  
4       online.

5               The sum of that. Then you wind up with  
6       8 megawatts less than what you had pre-project.

7               MS. MINOR: Thank you. Again, on page  
8       9, the new paragraph that was added in the middle  
9       of the page, do you see that paragraph?

10              MR. GALLEBERG: Right, yes.

11              MS. MINOR: What has been the load  
12       growth since 2000, and maybe this is a question  
13       for Mr. Hesters?

14              MR. HESTERS: From what I've seen with  
15       load growth forecasts is that they've changed  
16       wildly from 2000.

17              MS. MINOR: Um-hum.

18              MR. HESTERS: That's why I threw a 3  
19       percent estimate in there, just to sort of get a  
20       ballpark estimate of what 207 megawatts could mean  
21       to the system.

22              MS. MINOR: Do you have a handle on what  
23       the historical load growth has been on the  
24       peninsula?

25              MR. HESTERS: I looked briefly at some

1 load forecasts and what I remember is them  
2 changing significantly. I don't remember exactly  
3 what they were.

4 MS. MINOR: Changed significantly such  
5 that the load growth was higher or lower than 3  
6 percent?

7 MR. HESTERS: I think they have been  
8 lower and gone higher, but that's not a -- I need  
9 the forecast in front of me. Again, it was just a  
10 ballpark.

11 MS. MINOR: On page 9, and I'm not sure  
12 if this is question for Mr. Galleberg or Mr.  
13 Hesters at this point, footnote 6, which is also  
14 in addition to the testimony.

15 MR. HESTERS: I'm looking at it.

16 MS. MINOR: What timeframe are you  
17 referencing for purposes of footnote 6 that  
18 assumes a 1500 megawatt peak load?

19 MR. HESTERS: Let's see, if I go back to  
20 the load forecast on page 3, again, well, the 2000  
21 forecast has a load of 1350, I think it was 1352.  
22 Again, it was a ballpark. I was trying to do some  
23 general math on it. It's just to give a  
24 reference. It's not to say -- even if the load  
25 forecast was exactly right, you'd still have to do

1 studies an analysis to know exactly what the  
2 project deferred.

3 You'd still have to do a load flow study  
4 with the project and a load flow study without the  
5 project.

6 MS. MINOR: So what timeframe -- this  
7 assumption of 1500 megawatt that's being referred  
8 to in footnote 6, --

9 MR. HESTERS: Right.

10 MS. MINOR: -- is this a timeframe of  
11 2007, 2008, 2009?

12 MR. HESTERS: It's not a specific  
13 timeframe. Again, I'm just trying to come up with  
14 a ballpark.

15 MS. MINOR: What generation facilities  
16 did you assume were in place for this time period  
17 that you were using, whatever that time period  
18 was?

19 MR. HESTERS: In San Francisco or --

20 MS. MINOR: Yes, San Francisco.

21 MR. HESTERS: In this paragraph that I'm  
22 talking about, it's the comparison of a system  
23 without Hunter's Point and with Unit 7 to a system  
24 without Hunter's Point and without Unit 7.

25 MS. MINOR: Is Unit 3 included in this



1 assumption?

2 MR. HESTERS: In both of those cases it  
3 would be, yes.

4 MS. MINOR: Okay, and is it a retrofit  
5 Unit 3 operating at full capacity?

6 MR. HESTERS: If it was operating it  
7 would have to be retrofitted, as far as I know.

8 MS. MINOR: And so the assumption here  
9 is that Unit 3 has been retrofitted and is  
10 operating at full capacity?

11 MR. HESTERS: The assumption is that  
12 it's operating at full capacity, yes.

13 MS. MINOR: All right. Mr. Hesters, I  
14 think this is just a typo that maybe your computer  
15 system did. If you'd look at page 9, starting on  
16 page 9.

17 MR. HESTERS: Okay.

18 MS. MINOR: The subparagraphs that were  
19 1 and 2 are 5 and 6?

20 MR. HESTERS: The numbers, yes --

21 MS. MINOR: I just wanted to make sure  
22 there's not a missing --

23 MR. HESTERS: No.

24 MS. MINOR: -- 1 through 4.

25 MR. HESTERS: It's the problem with

1 Word, again.

2 MS. MINOR: Oh, okay.

3 MR. HESTERS: The mysteries of Word,  
4 sorry.

5 MS. MINOR: Okay.

6 MR. HESTERS: Write Bill Gates.

7 MR. FLYNN: What was that?

8 MR. HESTERS: I just said you can write  
9 Bill Gates.

10 I will say the amazing thing is if you  
11 go through and do an accept-changes on this  
12 redline/strikeout, everything gets fixed.

13 MS. MINOR: Mr. Galleberg, can you  
14 update us on ISO's discussions with Mirant about  
15 the retrofit of Unit 3? Is it your understanding  
16 that the retrofit will proceed?

17 MR. GALLEBERG: I think this testimony  
18 primarily discusses Unit 7 --

19 MS. MINOR: Um-hum.

20 MR. GALLEBERG: -- and not Unit 3.

21 MS. MINOR: Um-hum.

22 MR. GALLEBERG: So what the exact status  
23 of the discussions regarding retrofitting of  
24 Potrero Unit 3 is, I don't think is listed in this  
25 testimony.

1 MS. MINOR: Okay.

2 MR. GALLEBERG: And I'm not really sure  
3 at the moment.

4 MS. MINOR: Well, I'm looking at page 10  
5 at the bottom of the page, the sentence, the  
6 second sentence from the end of the page, which  
7 says, "The assumes that Potrero 3 will remain in  
8 service through 2009, and will be retrofitted to  
9 meet emission requirements by the end of 2004."

10 And so my questions really go to trying  
11 to assess the assumption that is being made about  
12 the retrofit of Unit 3 and what is the likelihood  
13 that that retrofit will take place. Do you have  
14 any current information about the status of the  
15 retrofit?

16 MR. GALLEBERG: I know there have been  
17 discussions between the Mirant and the ISO about  
18 this, but I can't give you a good status. I would  
19 think Mirant would be better to update us on that.

20 MS. MINOR: Do you know what division at  
21 ISO is responsible for the question of whether the  
22 capital additions for the retrofit would be  
23 recoverable by Mirant?

24 MR. GALLEBERG: I think that maybe the  
25 contracts department.

1 MS. MINOR: Okay. In the section  
2 beginning on page 11 that discusses the effect on  
3 system losses, consideration is given to the  
4 economic impact of transmission losses. Are there  
5 other economic impacts that would be studied if  
6 you were comparing the economics of generation to  
7 the economics of transmission?

8 MR. GALLEBERG: Yes. Losses is only one  
9 piece. Cost of RMR contract would be another one.  
10 And also cost of potential local market power  
11 could be another one. This is all very hard to  
12 estimate today, but there's many factors.

13 Another factor will probably be that  
14 there will be more power available on the grid,  
15 which should lead to lower prices.

16 So losses is one piece only.

17 MS. MINOR: Would you also look at  
18 environmental costs?

19 MR. GALLEBERG: Yes, that would be  
20 another.

21 MS. MINOR: Would you do a full economic  
22 analysis to try to assess the advantages or  
23 disadvantages of transmission versus generation  
24 which would look at all of the factors you've  
25 listed?

1 MR. GALLEBERG: We haven't done it, and  
2 I don't think we're in a position to do it because  
3 we're focusing on transmission, because we really  
4 don't have any control over generation.

5 MS. MINOR: But looking only at  
6 transmission losses may not, in fact, capture all  
7 of the economic benefits of transmission versus  
8 generation, or generation versus transmission?

9 MR. GALLEBERG: No.

10 MS. MINOR: We have no further questions  
11 at this time. Thank you.

12 HEARING OFFICER VALKOSKY: Thank you,  
13 Ms. Minor. Mr. Ramo.

14 CROSS-EXAMINATION

15 BY MR. RAMO:

16 Q I'd like to turn briefly to the issue  
17 about generators passing on their cost benefits.

18 I gather in your analysis you're looking  
19 forward to the time where Unit 7 is in operation  
20 around 2005, is that correct?

21 MR. GALLEBERG: Yes.

22 MR. RAMO: And I gather in doing that  
23 you've made some assumptions about the way the  
24 system will be operating at that point, is that  
25 correct?

1 MR. GALLEBERG: Yes.

2 MR. RAMO: Now, in response to  
3 Commissioner Pernell, you had some discussion  
4 about the PUC's role, is that correct?

5 MR. GALLEBERG: That's correct.

6 MR. RAMO: And the PUC's role, we think,  
7 by then will continue to be regulating retail  
8 prices to the residential customers, is that  
9 correct?

10 MR. GALLEBERG: That's my understanding,  
11 yes.

12 MR. RAMO: And was your assumption that  
13 in setting those prices there would be, as there  
14 is today, some consideration of the cost of  
15 acquiring electricity by the regulated utility in  
16 setting retail prices?

17 MR. GALLEBERG: I think that's how they  
18 set the retail rates, yes.

19 MR. RAMO: So whether benefits are  
20 passed on to the ratepayer not only includes  
21 whether the PUC does the job we're assuming they  
22 will do, but also depends upon what the cost of  
23 electricity is to the retail provider, is that  
24 correct?

25 MR. GALLEBERG: Yes, the cost on the

1 wholesale level.

2 MR. RAMO: Now, would it be fair to say  
3 that you are making a qualitative economic  
4 judgment that in the competitive market when costs  
5 go down prices go down?

6 MR. GALLEBERG: That is true, yes.

7 MR. RAMO: And if there's not a  
8 competitive market that doesn't necessarily hold,  
9 does it?

10 MR. GALLEBERG: No.

11 MR. RAMO: That's why we have agencies  
12 like the ISO and FERC and other agencies whose  
13 obligation, we all think, is to assure that these  
14 kinds of uncompetitive practices don't impact  
15 costs, is that correct?

16 MR. GALLEBERG: That is my  
17 understanding, too, yes.

18 MR. RAMO: Now in terms of -- whose  
19 currently buying electricity for San Francisco  
20 today?

21 MR. GALLEBERG: I think it's PG&E, --

22 MR. RAMO: Okay.

23 MR. GALLEBERG: -- but that's not my  
24 area.

25 MR. RAMO: Let's assume for the moment

1       it's PG&E. For the first --

2               MR. GALLEBERG: Can I correct -- the  
3       state is buying on behalf of PG&E --

4               MR. RAMO: Okay, state, during this  
5       moment of bankruptcy, is --

6               MR. GALLEBERG: Right.

7               MR. RAMO: -- standing in PG&E's place,  
8       fulfilling PG&E's function buying electricity in  
9       theory.

10              Okay. So, what is the capacity of the  
11       transmission system currently to bring in  
12       electricity into San Francisco, how many  
13       megawatts?

14              MR. GALLEBERG: How many megawatts you  
15       can bring in on the transmission lines?

16              MR. RAMO: Yeah.

17              MR. GALLEBERG: As was pointed out  
18       earlier, this are guided by operating diagrams.  
19       Those diagrams are confidential. So I can't give  
20       you an exact number, but most of the power  
21       consumed in San Francisco comes over those  
22       transmission lines.

23              MR. RAMO: Let's assume that, for the  
24       moment, that 500 megawatts comes over the  
25       transmission lines into San Francisco. That would



1 suggest if Unit 7 was operating the State of  
2 California for the first 500 megawatts San  
3 Francisco needs, could purchase it from generators  
4 who send it over the transmission line, or  
5 presumably could purchase it from Mirant, is that  
6 correct?

7 MR. GALLEBERG: That is correct.

8 MR. RAMO: And all things being equal,  
9 other than transmission loss, Mirant's costs would  
10 be lower, is that correct?

11 MR. GALLEBERG: Why would it be lower?  
12 Because it's a more efficient plant? Is that --

13 MR. RAMO: Assuming that they had an  
14 equally efficient plant than all the generators  
15 sending electricity over the transmission line,  
16 they wouldn't have to pay transmission loss costs,  
17 or it would be a small fraction, so they would  
18 have an advantage, would they not?

19 MR. GALLEBERG: Yes, the generation  
20 close to the load would have an advantage.

21 MR. RAMO: So as long as they were one  
22 cent cheaper, California would have a reason to  
23 buy the electricity from Mirant as opposed to  
24 transmission line, is that not correct?

25 MR. GALLEBERG: That's what I would have

1 done if I was in PG&E and was buying power, yes.

2 MR. RAMO: So whether the full  
3 transmission loss benefit gets transferred to the  
4 ratepayer depends upon whether Mirant decides to  
5 pocket its advantage or reduce the cost it charges  
6 PG&E, isn't that correct?

7 MR. GALLEBERG: Less losses would enable  
8 Mirant to bid lower because of less losses to pay  
9 for.

10 MR. RAMO: Now, after we get -- if  
11 there's a demand in San Francisco of 500  
12 megawatts, assuming the transmission system can  
13 only bring in 500 megawatts, there's no competitor  
14 to Mirant at that point, is that correct?

15 MR. GALLEBERG: Except for those other  
16 few smaller plants existing in the City, and then  
17 Hunter's Point is shut down, then it's basically  
18 Mirant left.

19 MR. RAMO: So in our post-regulatory  
20 world the only control over that potential market  
21 power is the regime that's put in place by  
22 agencies who have authority over pricing, isn't  
23 that correct?

24 MR. GALLEBERG: Yes, which would be ISO  
25 and FERC.

1           MR. RAMO: Or the California Energy  
2 Commission pursuant to its permit power, isn't  
3 that correct?

4           MR. GALLEBERG: I don't know.

5           MR. RAMO: Okay, now I want to be sure I  
6 understand the chronology that you're putting out  
7 in your testimony.

8           Let me have you turn to page 2 and the  
9 new language at paragraph 2. And my first  
10 question is, since we have joint authorship of  
11 this testimony, do you, as a witness, join in that  
12 testimony in paragraph 2?

13          MR. GALLEBERG: Are you asking me?

14          MR. RAMO: Yeah.

15          MR. GALLEBERG: Yes.

16          MR. RAMO: Do you have the authority to  
17 represent the ISO in endorsing this statement?

18          MR. GALLEBERG: Yes.

19          MR. RAMO: Can the ISO change its mind  
20 about that?

21          MR. GALLEBERG: No, they -- I mean this  
22 is written language, so they shouldn't change  
23 their mind about that, no.

24          MR. RAMO: Do they have the power to  
25 change their mind, as far as you know?

1 MR. GALLEBERG: That's a legal question  
2 I can't answer.

3 MR. RAMO: Are you aware, based on  
4 whatever limited regulatory experience you have,  
5 of any enforceable requirement that binds the ISO  
6 to this testimony for the next five years?

7 MR. WESTERFIELD: Well, I have to object  
8 to that question, since it asks for a legal  
9 opinion. And the witness has already stated he's  
10 not an expert in that area.

11 HEARING OFFICER VALKOSKY: Just let  
12 the -- Mr. Westerfield, I respect your objection,  
13 but let's just have the witness answer.

14 Mr. Galleberg, could you answer Mr.  
15 Ramo's question, please?

16 MR. GALLEBERG: No, we should not change  
17 our mind about that. We should not change that  
18 language. This has been reviewed by our lawyer,  
19 so this is firm.

20 MR. RAMO: As far as you know it's as  
21 firm as can be?

22 MR. GALLEBERG: Right.

23 MR. RAMO: Now, I gather what that  
24 statement is saying is as far as the ISO is  
25 concerned, Hunter's Point can shut down if one,

1 Unit 7 is built; two, there's a reasonable RMR  
2 contract; and three, the planned transmission  
3 upgrades are made, is that correct?

4 MR. GALLEBERG: That's correct, for  
5 Hunter's Point Unit 4.

6 MR. RAMO: Is that for the entire  
7 Hunter's Point unit, or just Unit 4?

8 MR. GALLEBERG: There's one CT at Unit 1  
9 which is not covered here; this is only for Unit  
10 4.

11 MR. RAMO: Those are the synchronous  
12 condensers? No, that's the peaker, is that  
13 correct?

14 MR. GALLEBERG: No, the synchronous  
15 condensers are separate. This statement only  
16 covers Unit 4. Not Unit 1, not Unit 2, not Unit  
17 3.

18 MR. RAMO: And is Unit 1 the peaker?

19 MR. GALLEBERG: Unit 1 is a peaker, yes.

20 MR. RAMO: So under the Unit 7 project,  
21 the entire Hunter's Point facility will not be  
22 shut down for the conceivable future, is that  
23 correct?

24 MR. GALLEBERG: I'm sorry, can you  
25 repeat that question?

1           MR. RAMO: So the Unit 7 project that  
2           you reviewed will not lead to the shutdown of the  
3           entire Hunter's Point facility in the conceivable  
4           future, is that correct?

5           MR. GALLEBERG: We, as it says in this  
6           section 2, we can end the RMR contract with  
7           Hunter's Point Unit 4, assuming that we get a  
8           reasonable contract with Mirant for the Unit. And  
9           the planned transmission upgrades are in place.

10          We think also, as we discussed, I think,  
11          under the transmission system, TSE section  
12          earlier, transmission system engineering, that the  
13          whole entire plant can be shut down when Unit 7  
14          comes online. We think so, but we haven't written  
15          that in the same way as we have done for Unit 4.  
16          But we think that's a reasonable assumption.

17          The ISO is very committed to work  
18          towards a closure of Hunter's Point Power Plant.

19          MR. RAMO: But you're not making the  
20          kind of firm commitment to Unit 1 as you are to  
21          Unit 4 today?

22          MR. GALLEBERG: Exactly.

23          MR. RAMO: Now, I gather from the  
24          previous cross-examination that you are  
25          anticipating Jefferson-Martin to be built,

1 completed and in operation by 2005, is that  
2 correct?

3 MR. GALLEBERG: Yeah, late 2005.

4 MR. RAMO: Late 2005. When were you  
5 assuming Unit 7 shutdown -- excuse me, Unit 7  
6 would be built?

7 MR. GALLEBERG: I think we assumed on  
8 the front section 2005.

9 MR. RAMO: Do you have a time within  
10 2005?

11 MR. GALLEBERG: No. I don't think it  
12 really matters for this part, at least.

13 MR. RAMO: So, it's possible that Unit 7  
14 and Hunter's Point Unit 4 would be operating for  
15 at least a year until the Jefferson-Martin line is  
16 in operation in late 2005?

17 MR. GALLEBERG: I believe the answer to  
18 that is yes. But I think it's likely that this --  
19 maybe I shouldn't say that, but it would be my  
20 guess that Unit 7 is coming online after  
21 Jefferson-Martin.

22 But, you're right, it could potentially  
23 overlap.

24 MR. RAMO: Until Jefferson-Martin is in  
25 operation, Unit 7 -- excuse me -- even if Unit 7

1 is built, Hunter's Point 4 cannot be shut down,  
2 correct?

3 MR. GALLEBERG: Potentially, but we  
4 can't commit to it here.

5 MR. RAMO: And I forget, are you also  
6 barred by confidentiality reasons from indicating  
7 how many megawatts Jefferson-Martin allows to be  
8 brought into San Francisco?

9 MR. GALLEBERG: No, I think that's  
10 public. I think it's 380 megawatt, 385 or around  
11 there.

12 MR. RAMO: Are you aware that Jefferson-  
13 Martin has gone before the Public Utilities  
14 Commission?

15 MR. GALLEBERG: Yes. PG&E filed with  
16 the CPUC.

17 MR. RAMO: And are you aware that a  
18 protest has been filed by neighbors in the area  
19 where the Jefferson-Martin upgrade will be built?

20 MR. GALLEBERG: No, I'm not aware of  
21 that.

22 MR. RAMO: And clearly Public Utilities  
23 Commission approval is necessary before Jefferson-  
24 Martin can be built?

25 MR. GALLEBERG: Yes.



1           MR. RAMO: So when you wrote that you  
2 would not need to extend the existing RMR contract  
3 for Hunter's Point once Unit 7 comes online you  
4 really meant once Unit 7 comes online and  
5 everything else we require happens, too, is that  
6 correct? Such as Jefferson-Martin.

7           MR. GALLEBERG: I think we can't say  
8 that for sure today, because this is some years  
9 out, and as we know, there are many variables out  
10 there, like load growth, status of other plants.  
11 But I think we can commit to this at this point.

12           But potentially, when we get closer, we  
13 can do more.

14           MR. RAMO: But you require Jefferson-  
15 Martin to be shutdown first, isn't that correct?

16           MR. GALLEBERG: To be built first?

17           MR. RAMO: To be built first.

18           MR. GALLEBERG: I think so, but again,  
19 we'll have to take a closer look at that when we  
20 get closer to 2005.

21           MR. RAMO: But that's, as of --

22           MR. GALLEBERG: -- this section, yes,  
23 that we need Jefferson-Martin.

24           MR. RAMO: Okay. Are you familiar with  
25 and federal requirements that require baseload

1 generating units to have dual fuel capacity?

2 MR. GALLEBERG: No, I'm not.

3 MR. RAMO: You're not familiar with the  
4 Power Plant and Industrial Fuel Use Act of 1978?

5 MR. GALLEBERG: No, I'm not.

6 MR. RAMO: Mr. Hesters, are you familiar  
7 with that?

8 MR. HESTERS: No, I'm not.

9 MR. RAMO: So nobody looked at that Act  
10 in determining the LORS for local system effects  
11 or reliability or any other aspect of this power  
12 plant?

13 MR. HESTERS: No.

14 MR. RAMO: Okay. Now we talked about  
15 the load forecast, and is there one number you're  
16 now using? You gave a couple of numbers here on  
17 page 3, 1352 megawatts or the 1261 megawatts.

18 MR. HESTERS: I think that's what we  
19 said, we said earlier is that we don't -- the load  
20 forecast doesn't specifically affect this  
21 testimony, or doesn't have a significant effect on  
22 this testimony. And they change a lot. That's  
23 partly why the ISO, in their new study for the  
24 long-term planning for San Francisco, is looking  
25 at load serving capability rather than load,

1 specific loads. They vary, and forecasts vary.

2 MR. RAMO: So it would be reasonable to  
3 use either number for purposes of analysis today?

4 MR. HESTERS: I guess as today the  
5 forecast is lower than it was two years ago. So  
6 today, I'd use today's forecast.

7 MR. RAMO: And that's the 1261  
8 megawatts?

9 MR. HESTERS: Yes.

10 MR. RAMO: Now, on page 3 of your  
11 testimony, and whoever can best answer this, feel  
12 free to answer, under generation near the bottom  
13 of the page, it appears that you aren't taking  
14 into account the United Cogen facility, even  
15 though the table mentions the United Cogen  
16 facility.

17 And I wondered if that was intentional  
18 or not. In other words there's a statement that  
19 says forecasted total local generation year 2004  
20 is 598 megawatts, 363 from Potrero Power Plant and  
21 215 from Hunter's Point Power Plant.

22 The table was United Cogen for 20  
23 megawatts. Is there a reason not to include  
24 United Cogen for 2004?

25 MR. HESTERS: I'm trying to figure out

1 where you are.

2 MR. RAMO: Page 6.6-3 under the  
3 subheading generation, near the bottom. Do you  
4 see that now?

5 MR. HESTERS: Got it.

6 MR. RAMO: And it talks about forecasted  
7 total local generation in the year 2004. And the  
8 text doesn't mention United Cogen --

9 MR. HESTERS: It was unintentional.

10 MR. RAMO: -- but the table does.

11 MR. HESTERS: It was unintentional.

12 MR. RAMO: Okay.

13 MR. HESTERS: Which, I guess, would make  
14 the total 618.

15 MR. RAMO: Now one of the benefits you  
16 discussed, and you may have heard me ask questions  
17 of the applicant's witness about this, you list as  
18 a benefit that Unit 7 may displace future  
19 transmission upgrades.

20 If Unit 7 went down wouldn't there be a  
21 benefit in having additional transmission  
22 upgrades?

23 MR. GALLEBERG: Yes.

24 MR. RAMO: So why is that considered a  
25 benefit?

1 MR. GALLEBERG: I'm sorry, what would be  
2 considered a benefit? Unit 7?

3 MR. RAMO: Deferring further  
4 transmission upgrades beyond those planned.

5 MR. GALLEBERG: If we can defer other  
6 transmission projects that would be a benefit,  
7 economic benefit because we didn't have to  
8 construct them.

9 MR. RAMO: And would you, in fact, do  
10 that if Unit 7 was built?

11 MR. GALLEBERG: I can't tell you that  
12 today. That's -- as this testimony is based, it's  
13 Potrero 7 basically replaces Hunter's Point. So  
14 then you wouldn't see any more benefits after  
15 that.

16 MR. RAMO: Well, let's talk --

17 MR. WESTERFIELD: Mark, would you like  
18 to add something?

19 MR. HESTERS: Yeah, can I add. I think  
20 what you're getting at is there are certain  
21 reliability requirements, reliability criteria  
22 that must be met.

23 The need for new facilities will change  
24 with or without Potrero 7. The criteria are  
25 fairly strict. They're -- to go beyond the

1 criteria certainly have some benefit. Whether  
2 that benefit is enough to go ahead and build a  
3 facility that might have been deferred by Potrero  
4 7, go ahead and build a facility anyway, would  
5 need some kind of economic analysis.

6 But generally the ISO's just building --  
7 just needs to -- the system just needs to meet the  
8 criteria. If Potrero 7 helps you meet that  
9 criteria, and somehow means you don't have to do  
10 something else, that's a benefit.

11 MR. RAMO: Who pays for the Jefferson-  
12 Martin upgrade?

13 MR. GALLEBERG: Eventually it will be  
14 the ratepayers in California.

15 MR. RAMO: Did you do any comparison  
16 between the cost effectiveness of building Unit 7  
17 and the cost effectiveness of additional  
18 transmission upgrades?

19 MR. GALLEBERG: I have not been part of  
20 that. I know the planning studies for Jefferson-  
21 Martin was completed more than two years ago. And  
22 Potrero 7 has just been around for one or two, but  
23 we haven't done that kind of analysis because we  
24 can't rely on a new power plant in the same way as  
25 we can do with a transmission project.

1           MR. RAMO: Mr. Hesters, in making your  
2           economic analysis of Unit 7 did you do a  
3           comparison cost effectiveness analysis of further  
4           transmission upgrades?

5           MR. HESTERS: I haven't done an economic  
6           analysis of Unit 7.

7           MR. RAMO: To the extent that you are  
8           testifying regarding monetary benefits from the  
9           operation of Unit 7, did you compare that to the  
10          monetary benefits of increasing transmission  
11          upgrades?

12          MR. HESTERS: No, I only analyzed the  
13          impacts of this project.

14          MR. RAMO: Now, in the testimony there's  
15          plenty of discussion about planning standards from  
16          California ISO. Are those minimum standards?

17          MR. GALLEBERG: Yes.

18          MR. RAMO: Does the ISO try to go above  
19          the minimum that's required by its criteria?

20          MR. GALLEBERG: No, we don't. It needs  
21          to be cost effective.

22          MR. RAMO: Now at page 4 of your  
23          testimony, in the first full paragraph there's a  
24          discussion generally about NOx controls and  
25          Hunter's Point and Potrero, various Potrero Units

1 now in operation. Do you see that discussion?

2 MR. GALLEBERG: On the top of the page?

3 MR. RAMO: Yeah, under the table on page  
4 4.

5 MR. GALLEBERG: Yes.

6 MR. RAMO: In thinking through the  
7 impact of the NOx limits on the system, did you  
8 consider the recent settlement between community  
9 groups and PG&E regarding interchangeable emission  
10 reduction credits?

11 MR. GALLEBERG: I looked at it, but it  
12 was after this testimony was written, so it was  
13 not considered as part of this testimony.

14 MR. RAMO: Are you aware that PG&E  
15 believes that settlement will allow it to operate  
16 through at least 2005?

17 MR. GALLEBERG: That's my understanding  
18 of the settlement, yes. Or out 2004 with limited  
19 operation in 2005.

20 MR. RAMO: Now, there was also testimony  
21 that was lined out that indicated that Unit 3's  
22 operations were currently limited by Mirant due to  
23 the NOx bubble. Do either of you know why those  
24 were lined out?

25 MR. GALLEBERG: Where in the testimony



1 are we now? I'm sorry.

2 MR. RAMO: Excuse me, page 14, the last  
3 full paragraph. And what's lined out is the  
4 sentence: Currently the output from Potrero Unit  
5 3 has been limited by Mirant due to the NOx  
6 emission bubble pending NOx reduction upgrades to  
7 the remaining fleet of Mirant boilers."

8 MR. GALLEBERG: I think the reasoning  
9 for striking that was -- I mean we don't really  
10 know, but since Mirant owns Unit 3 and Mirant  
11 should speak to that, and not the ISO. That's my  
12 understanding.

13 MR. RAMO: That Mirant -- I'm sorry, I  
14 didn't catch --

15 MR. GALLEBERG: Mirant should speak for  
16 the NOx bubble and the NOx limitations for Unit 3,  
17 and not the ISO.

18 MR. RAMO: Well, had you made a judgment  
19 in preparing this testimony that that's what was  
20 happening?

21 MR. GALLEBERG: Yeah, I know Unit 3 is  
22 part of -- in the NOx bubble for Mirant.

23 MR. RAMO: And was it your belief at the  
24 time that you made this statement that it was  
25 true?

1 MR. GALLEBERG: Yeah, I think it's true.

2 Yes.

3 MR. RAMO: And who made the decision as  
4 to -- who makes the decision as to how the NOx  
5 bubble affects operations? The ISO or Mirant?

6 MR. GALLEBERG: That's Mirant; they need  
7 to make sure that they're not violating the NOx  
8 bubble or any other criteria.

9 MR. RAMO: So notwithstanding your RMR  
10 contract currently with Unit 3, they have, to a  
11 certain extent, discretion as to how they operate  
12 that facility in relation to their other  
13 facilities in the Bay Area, correct?

14 MR. GALLEBERG: That would be correct.

15 MR. RAMO: Now, if Unit 3 or Hunter's  
16 Point 4 are upgraded, who pays?

17 MR. GALLEBERG: The owner of the plant.

18 MR. RAMO: Excuse me?

19 MR. GALLEBERG: The owner of the plant.

20 MR. RAMO: So their RMR contract  
21 doesn't, in any way, allow them to pass costs for  
22 installing pollution control equipment required by  
23 regulation to the ratepayer?

24 MR. GALLEBERG: I believe they can  
25 negotiate contracts with the ISO to pass some of

1 the cost to possibly ISO for operating the units.  
2 But I mean the main responsibility is with the  
3 owner of the plant.

4 MR. RAMO: Do you know for certain or  
5 are you just guessing?

6 MR. GALLEBERG: I can say I'm guessing  
7 because this is not my area. Maybe I shouldn't  
8 speak for it.

9 MR. RAMO: If the costs were not passed  
10 on to the ratepayer, do you know of any reason why  
11 the ISO would have a problem in Unit 3 being  
12 upgraded and a year later being shut down if it  
13 wasn't needed for reliability?

14 MR. GALLEBERG: If it's not needed for  
15 reliability ISO wouldn't have anything to do with  
16 it. It would be up to the owner, if he wants to  
17 operate a plant, and then shut it down one year  
18 afterwards, he can do that if he wants.

19 MR. RAMO: On page 10, let me ask you to  
20 turn to page 10, the last paragraph. And in the  
21 second sentence in the last paragraph there's a  
22 statement referring to the Jefferson-Martin  
23 upgrades. And it states: With these four  
24 transmission projects in service, studies  
25 performed to date project that the San Francisco

1 Peninsula region may continue to meet reliability  
2 standards through the year 2009."

3 Do you see that statement?

4 MR. GALLEBERG: Yes.

5 MR. RAMO: Is that with Unit 7 or  
6 without Unit 7?

7 MR. GALLEBERG: I think that's without  
8 Unit 7. It also says "may," so it's more a  
9 speculation than anything else, I think.

10 MR. RAMO: And the fact that you changed  
11 the words "is projected" to "may continue", does  
12 that mean we're in compliance with minimum CalISO  
13 standards today in San Francisco?

14 MR. GALLEBERG: This is the time after  
15 Jefferson-Martin comes in. That's, as it says  
16 further down on the same page, this is work in  
17 progress by the San Francisco stakeholder study  
18 group. So they're looking at the reliability  
19 after Jefferson-Martin and long-term up to 2009, I  
20 think.

21 MR. RAMO: But based on your knowledge  
22 of the situation today, are we currently meeting  
23 reliability standards of the ISO?

24 MR. GALLEBERG: Yes, you are.

25 MR. RAMO: Now, and again, depending on

1       who can best answer the question, either of you  
2       feel free to jump in.

3               The testimony generally describes a  
4       transmission loss analysis, correct? I'll refer  
5       to page 12 of your testimony.

6               MR. HESTERS: Yes, it does.

7               MR. RAMO: And as part of that analysis  
8       which you chose, and correct me if I'm wrong, but  
9       you looked at specific other generators that might  
10      be, I gather, displaced if Unit 7 was operating,  
11      is that correct?

12              MR. HESTERS: Yes.

13              MR. RAMO: So for example, you looked at  
14      what if Moss Landing generated less or La Paloma  
15      generated less, correct?

16              MR. HESTERS: Those are two of the  
17      scenarios, yes.

18              MR. RAMO: How were these scenarios, I  
19      guess it's called -- how were these dispatch  
20      scenarios chosen?

21              MR. HESTERS: We looked at things that  
22      we thought were likely. It's hard to forecast  
23      what's going to happen with a new unit, so we  
24      tried to choose a wide range.

25              MR. RAMO: So it was a combination of

1       plausibility, as well as getting the range of  
2       possibilities, is that correct?

3               MR. HESTERS:   Yes.

4               MR. RAMO:   Now, turning to page 18, at  
5       the top of your testimony, there's a sentence that  
6       I take to be saying that as well as reducing the  
7       cost of power in California, that there may be a  
8       reduction in air emissions as a result of Unit 7  
9       being part of the system, is that a fair  
10      statement?

11              MR. HESTERS:   I said the cost of  
12      producing power in California.  I didn't say the  
13      cost of power, because that could imply --

14              MR. RAMO:   Thank you for the  
15      clarification.  The cost of producing -- in  
16      addition to the cost of producing power -- point's  
17      very well taken -- that it would also reduce, the  
18      it would reduce the production of air emissions.  
19      Is that fair to say, summarizing that statement?

20              MR. HESTERS:   Yes.

21              MR. RAMO:   So, I'm going to really focus  
22      on this emissions question in the testimony.

23              First of all, one of your dispatch  
24      scenarios was the Northwest imports.

25              MR. HESTERS:   Yes.

1           MR. RAMO: Did you do a pollution  
2 analysis of what sources produce the electricity  
3 we import here into California?

4           MR. HESTERS: No. What we're looking at  
5 when I speak to that in that sentence is that you  
6 have to produce less power. Less power would mean  
7 generally less gas or other fuel, and less  
8 emissions.

9           MR. RAMO: So you made a generalization,  
10 is that correct?

11          MR. HESTERS: Yes.

12          MR. RAMO: Because, in fact, most of the  
13 Northwest imports, aren't they either  
14 hydroelectric or nuclear?

15          MR. HESTERS: And coal.

16          MR. RAMO: And coal. But you don't know  
17 what percentage the coal is?

18          MR. HESTERS: I don't know today. It's  
19 been awhile since I've seen studies of it.

20          MR. RAMO: That's fine. Did you, when  
21 you looked at these scenarios -- all these  
22 scenarios assume that if Unit 7 is operating these  
23 facilities reduce their production, correct?

24          MR. HESTERS: Basically if Unit 7 is  
25 operating something has to reduce power; something

1 is producing less power. You can't just produce  
2 500 new megawatts in San Francisco and not have a  
3 reduction in production somewhere else.

4 MR. RAMO: And the basis for your  
5 assumption is what?

6 MR. HESTERS: I guess basic engineering.  
7 You can't produce, suddenly, you can't have 500  
8 megawatts extra being produced in the system.

9 MR. RAMO: So adding generating units to  
10 a system will not really produce more megawatts  
11 for that system?

12 MR. HESTERS: Loads and resources have  
13 to balance. That's what I'm doing, is balancing  
14 loads and resources at that point.

15 MR. RAMO: And somewhere, whether it's  
16 Arizona, Nevada, New Mexico or across the border  
17 in California, generation has to go down is your  
18 assumption?

19 MR. HESTERS: Exactly.

20 MR. RAMO: But you don't know if it will  
21 be these particular facilities?

22 MR. HESTERS: Right.

23 MR. RAMO: Let's assume it is these  
24 particular facilities.

25 MR. HESTERS: Okay.



1 MR. RAMO: Did you do any demographic  
2 analysis of the population surrounding the La  
3 Paloma facility?

4 MR. HESTERS: No, but that's in the San  
5 Joaquin Valley.

6 MR. RAMO: It's in the middle of an oil  
7 well patch, isn't it?

8 MR. HESTERS: It is, actually.

9 MR. RAMO: And the Sutter facility is in  
10 a rural agricultural area in northern California,  
11 isn't that right?

12 MR. HESTERS: I know less about where  
13 the Sutter facility is than I do the La Paloma  
14 facility.

15 MR. RAMO: Did you make any analysis of  
16 the susceptibility of the populations near those  
17 facilities?

18 MR. HESTERS: No.

19 MR. RAMO: Or what other sources of  
20 pollution might be impacting those populations?

21 MR. HESTERS: No.

22 MR. RAMO: You didn't do any kind of  
23 comparative environmental justice analysis between  
24 those communities and the communities surrounding  
25 Unit 7, is that correct?

1 MR. HESTERS: No, I'm not an  
2 environmental justice expert.

3 MR. RAMO: Now, getting back to the  
4 economic aspect of the transmission loss, other  
5 than coming up with these plausible scenarios, you  
6 didn't do any modeling to determine whether in  
7 fact these units would generate less.

8 MR. HESTERS: No, we did not go through  
9 a market analysis -- market model.

10 MR. RAMO: I mean, for all you know,  
11 Moss Landing, if freed up from its responsibility  
12 for San Francisco, may competitively bid its  
13 electricity somewhere else. Is that correct?

14 MR. HESTERS: That's true.

15 MR. RAMO: And that may be even farther  
16 away than San Francisco, correct?

17 MR. HESTERS: Yes. We looked at what we  
18 thought were plausible scenarios. You could throw  
19 out any range of scenarios. We think these ones  
20 are pretty reasonable.

21 MR. RAMO: Now, let me ask you to turn  
22 to page 15, and our ISO witness may the best one  
23 to answer this one but, Mr. Hesters, feel free to  
24 jump in.

25 On page 15, at the end of the first

1 paragraph, there is a discussion about the event  
2 on June 14, 2000. Do you see that reference?

3 MR. GALLEBERG: Yes, I do.

4 MR. RAMO: And particularly interested  
5 in the phrase, the unexpected high temperatures  
6 combined with unforeseen extended maintenance  
7 outages. Do you see those phrases?

8 MR. GALLEBERG: Yes, I do.

9 MR. RAMO: In reference to the outages,  
10 what do you mean they were unforeseen?

11 MR. GALLEBERG: Based on what's written  
12 here, I would think that's the same as unplanned.  
13 Unplanned maintenance outages or unplanned  
14 outages, but --

15 MR. RAMO: That's just based on looking  
16 at the words, correct?

17 MR. GALLEBERG: That's correct.

18 MR. RAMO: You don't have any personal  
19 experience with what happened on June 14th?

20 MR. GALLEBERG: That happened before I  
21 was employed by the ISO, so --

22 MR. RAMO: And you haven't done any  
23 retroactive analysis of what went on there?

24 MR. GALLEBERG: No I haven't.

25 MR. RAMO: And, Mr. Hesters, you haven't

1       either?

2               MR. HESTERS:  I haven't either and I'm  
3       trying to remember what the circumstances of that  
4       outage is.  There have been extended maintenance  
5       outages where they just take longer than were  
6       originally expected, so you -- somebody has  
7       planned for one facility to be down, and it's  
8       supposed to come back up, and it doesn't because  
9       the maintenance takes longer than you expect.  I  
10      don't know what those specific unforeseen  
11      maintenance outages were.

12             MR. RAMO:  The last thing I'd like to  
13      ask you about is on page 17.  And it's a response  
14      to the City and County of San Francisco's LSE  
15      number 5 question.  Do you have that before you?

16             MR. GALLEBERG:  Yes.

17             MR. RAMO:  In the response, there is a  
18      statement that Potrero 7 being new, will  
19      inherently be more reliable and emit less NOx than  
20      Hunter's Point and Potrero 3.  Do you see that  
21      statement?

22             MR. GALLEBERG:  Yes, I do.

23             MR. RAMO:  Is -- focusing on the emit  
24      less NOx than Hunter's Point and Potrero 3, is  
25      that per kilowatt hour, or did you do an

1 evaluation of potential to emit?

2 MR. GALLEBERG: That's per megawatt  
3 hour.

4 MR. RAMO: So whether on a yearly basis  
5 Potrero 7 actually reduces pollution depends, in  
6 part, on its rate of emissions and it's in part on  
7 the amount of time it's operating, isn't that  
8 correct?

9 MR. GALLEBERG: That would be correct, I  
10 think.

11 MR. RAMO: No further questions -- or  
12 I'm sorry, one more.

13 You indicated -- the applicant's witness  
14 indicated that some of the ISO's planning criteria  
15 is secret, is that correct?

16 MR. GALLEBERG: No, that's not correct.  
17 The operating diagram that we use to operate the  
18 system with today, it's basically a set of  
19 nomograms that tells you for how much load, you  
20 need how much generation. Those nomograms are  
21 confidential. But the planning criteria is posted  
22 on our website, that is public.

23 MR. RAMO: Okay, thank you, I'm done.

24 HEARING OFFICER VALKOSKY: Okay, thank  
25 you, Mr. Ramo. Redirect, Mr. Westerfield?

1 MR. WESTERFIELD: Mr. Valkosky, could we  
2 have five minutes before we do our redirect?

3 HEARING OFFICER VALKOSKY: Sure. Okay,  
4 we'll recess for approximately five minutes.

5 MR. WESTERFIELD: Thank you.

6 (Brief Recess.)

7 HEARING OFFICER VALKOSKY: Okay, if we  
8 could go back on the record please. Redirect, Mr.  
9 Westerfield.

10 MR. WESTERFIELD: Well, after caucus,  
11 we've decided that we -- I have no further  
12 questions. You'll be glad to hear.

13 HEARING OFFICER VALKOSKY: Okay, that  
14 was a productive caucus then.

15 Okay, anything else for Mr. Hesters or  
16 Mr. Galleberg?

17 MR. SMITH: I have a couple of questions  
18 for you. Just to clarify this issue about the  
19 generator paying the cost of transmission losses.

20 Currently the state contracts cover a  
21 pretty substantial majority of the demand,  
22 probably 80 or 90 percent of the market in  
23 California? Something on that order? You don't  
24 have to be precise, just --

25 MR. HESTERS: From what I remember, I

1 don't think they're that large of a percentage on  
2 peak.

3 MR. SMITH: Okay, whatever the  
4 difference is then, that's the spot market that a  
5 generator bids into, correct? Okay.

6 When a generator bids into the market,  
7 excuse me, when a generator bids into the market  
8 they provide their electricity, what, at the  
9 substation level? They send it to the nearest  
10 substation, and then it's directed by the ISO?

11 What happens to an electron that Mirant  
12 produces from Potrero 7? Let's just -- they  
13 generate that electron, what happens to it?

14 MR. GALLEBERG: Well, physics says that  
15 that electron goes into the wire and then travels  
16 to --

17 MR. SMITH: Well, they're a merchant  
18 plant, they don't have a RMR contract. They bid  
19 into the market, their price is accepted. They  
20 get paid x dollars per kilowatt hour, megawatt  
21 hour, for their electricity.

22 When they send that electron into the  
23 system, they are sending it to -- at the  
24 substation -- they're sending it into the  
25 substation, and from there, it becomes the

1 responsibility of the ISO to direct?

2 MR. GALLEBERG: Or the utility if  
3 it's --

4 MR. SMITH: -- or the utility, okay --

5 MR. GALLEBERG: -- a substation level,  
6 yes.

7 MR. SMITH: The point I'm trying to get  
8 to is, they're not -- outside of any bilateral  
9 contracts, they're not selling electricity to a  
10 particular end user. They're not selling  
11 electricity to the IBM facility down in Silicon  
12 Valley, or some aluminum plant down in Fontana.

13 MR. GALLEBERG: No, if they sell the  
14 power on the spot market, then it's another  
15 purchaser. It could be PG&E, could be someone  
16 else.

17 MR. SMITH: Okay. Then how is the --  
18 how would Mirant be assessed transmission line  
19 losses for the electricity they sell on the spot  
20 market?

21 MR. GALLEBERG: They would get paid for  
22 the power they sell at the substation. So if they  
23 produce 500 megawatts at the plant, and then 495  
24 megawatts for instance, goes to the substation,  
25 then they will get paid for 495 megawatts, not 500



1 megawatts.

2 MR. SMITH: Okay, okay. So the closer  
3 they are to that first substation, that first grid  
4 intertie, the better they are.

5 MR. GALLEBERG: That's correct.

6 MR. SMITH: In terms of line losses.

7 MR. GALLEBERG: Yes.

8 MR. SMITH: And thus, in terms of cost  
9 of producing the electricity.

10 MR. GALLEBERG: Yes, they have less  
11 losses to pay for.

12 MR. SMITH: Or, excuse me, the cost of  
13 producing and delivering the electricity.

14 MR. GALLEBERG: Right.

15 MR. SMITH: Okay, all right, thank you.

16 HEARING OFFICER VALKOSKY: Thank you.  
17 Anything for these witnesses? Thank you,  
18 gentleman.

19 PRESIDING MEMBER PERNELL: Thank you.

20 HEARING OFFICER VALKOSKY: Mr.  
21 Westerfield, exhibit?

22 MR. WESTERFIELD: Right. We would like  
23 to move into evidence exhibit 69, the staff's  
24 revised LSE testimony.

25 HEARING OFFICER VALKOSKY: Is there any

1 objection? No objection, exhibit 69 is admitted.

2 Mr. Ramo, your witness, please.

3 MR. RAMO: I would ask the reporter to  
4 swear in Professor Garbesi.

5 Whereupon,

6 KARINA GARBESI

7 was called as a witness herein, and after first  
8 having been duly sworn, was examined and testified  
9 as follows:

10 DIRECT EXAMINATION

11 BY MR. RAMO:

12 Q Would you please state your name, title,  
13 and employer.

14 A My name is Karina Garbesi; my title is  
15 Assistant Professor; and my employer is the  
16 California State University at Hayward.

17 Q And would you briefly summarize your  
18 qualifications?

19 A Yes, in addition to being a Professor of  
20 geography and environmental studies at CalState  
21 Hayward, I'm affiliated faculty at UC Berkeley's  
22 Energy and Resources Group, and I'm a Guest  
23 Scientist at Lawrence Berkeley National  
24 Laboratory's Environmental Energy Technologies  
25 Division.

1 I have a masters and PHD and energy and  
2 resources from UC Berkeley, and I have a bachelors  
3 degree with high honors in physics also from UC  
4 Berkeley.

5 I have about 16 years of experience in  
6 the energy and environment fields, including  
7 extensive work on contaminant transport energy  
8 technologies and environmental impacts therefrom.  
9 And my CV, complete and current, is, I believe, on  
10 file with these proceedings.

11 A Now, did you prepare a document entitled  
12 testimony of Karina Garbesi regarding local system  
13 effects, which has been identified as exhibit 70?

14 A Yes.

15 Q And if I were to ask you the questions  
16 in that testimony, would the responses listed  
17 there be your responses?

18 A Yes, they would.

19 Q I wonder if you could summarize your  
20 testimony.

21 A Yes. My essential concern over the  
22 staff's local systems effects analysis was really  
23 related to the limited scope of the analysis.  
24 That it narrowly considers the benefits of Unit 7,  
25 but that it doesn't consider alternative scenarios

1       that might offer greater benefits and lesser  
2       environmental justice concerns.

3               The three main concerns I have were that  
4       if you were to provide 540 megawatts of capacity  
5       for multiple units, rather than a single  
6       monolithic unit, you could get better benefits in  
7       many of the areas that were analyzed by the staff.  
8       I should say and the ISO, actually.

9               The statewide benefits that were  
10       indicated for Unit 7, I'm concerned, might have  
11       adverse environmental justice impacts as part of  
12       getting those benefits. And last, I was concerned  
13       that potential local systems effects benefits of  
14       alternative sources were not addressed by the  
15       staff.

16              So, I'll turn first to my original  
17       concern, which was Unit 7's dominance over future  
18       in-area capacity. My analysis follows that the  
19       primary analysis that was used in the staff's LSE  
20       which was looking at Hunter's Point retired and  
21       after Unit 7 comes online.

22              In that case, Unit 7 would supply  
23       between 59 and 62 percent of in-area capacity  
24       depending on whether it was operating on normal or  
25       boosted power output.

1           Q     Did you want me to pass out table 1 to  
2     the Committee?

3           A     No, because that's table 1 for the  
4     supplemental.

5           Q     Okay.

6           A     Table 1 of the written testimony does  
7     summarize what I'm discussing right now, and I can  
8     identify that as we go along.

9                     To conceptualize the benefits of using  
10    more than one source to supply the same 540  
11    megawatts, what I did is I looked at the fraction  
12    of the load that could be met by remaining in-area  
13    capacity if Unit 7 went offline.   Okay?

14                    So, again, I'm assuming Hunter's Point  
15    is retired, and I used as a ballpark number the  
16    ISO's projected peak load in San Francisco for  
17    2009, which is 1257 megawatts; but I concur with  
18    the staff that those are squishy numbers.

19                    So as shown in table 2 of my written  
20    testimony, if Unit 7 went offline, under those  
21    conditions only 30 percent of the in-area load  
22    could be met by in-area capacity, the remaining  
23    capacity.

24                    But if you use the San Francisco  
25    operating criteria, their definition of critical

1 load, 40 percent of San Francisco's load is  
2 identified as critical load, the BART, MUNI, and  
3 highrise loads.

4 And I am not challenging the staff's  
5 assessment of whether the ISO for the current  
6 facilities meet planning criteria. All I'm doing  
7 is using that critical load as a benchmark to be  
8 able to see how much better one could use -- what  
9 you could do if one used multiple facilities,  
10 rather than just the single one.

11 My result was that if 120 megawatts of  
12 that 540 were supplied by another source, or other  
13 sources and conservation, the critical load could  
14 be met by in-area sources, even if Unit 7, or a  
15 scaled-down version thereof, a 420 watt --  
16 megawatt version thereof failed. And San  
17 Francisco's energy reliability would be increased  
18 significantly with the same total capacity  
19 addition.

20 My second concern was one of  
21 environmental justice. I'm concerned that  
22 statewide pollution reductions may come at the  
23 cost of the local community of color, which  
24 already bears a disproportionate pollution burden.

25 The staff notes in its analysis that

1 Unit 7 may both export power, and displace the  
2 need for imported power. Thereby, potentially  
3 displacing older, you know, generation from older,  
4 dirtier plants elsewhere. And that was noted as a  
5 benefit in the local systems effects analysis.

6 But, again, depending on where those  
7 emissions reductions occur, you might not even get  
8 substantial public health benefits therefrom, and  
9 you may be transferring emissions from majority  
10 white to a majority non-white community.

11 This is a possibility in the context of  
12 a project, which, according to the applicant,  
13 would be increasing local PM10 emissions from in-  
14 area power plants by 68 percent. That's according  
15 to their original reliability analysis, volume 2  
16 of the AFC.

17 So, while I was unable to conduct a  
18 detailed analysis, myself, I am concerned that the  
19 applicant and the staff have not done so before  
20 claiming those statewide emissions reductions as a  
21 benefit.

22 My final concern relates to lack of  
23 recognition of potential systems benefits that  
24 could be provided by alternative means. And I  
25 think again, in some cases, they could provide

1       those same benefits in greater magnitude,  
2       proportional to the amount of capacity that they  
3       displace.

4               So I'm not necessarily saying that  
5       you're going to get 540 megawatts, but for each  
6       megawatt you can displace from other sources, you  
7       can get greater benefits.

8               The staff recognized initially the  
9       benefit of Unit 7 in reducing transmission and  
10      distribution system losses, and that was explained  
11      eloquently in the past hour or so. And it  
12      acknowledged potential environmental benefits  
13      therefrom.

14              But, it does not acknowledge that energy  
15      efficiency and distributed generation could  
16      actually produce greater power loss reductions  
17      than would centralized generation. Again, in  
18      proportion to the amount of power that is supplied  
19      or displaced.

20              And it can do so because in that case,  
21      no power transport is needed. Unit 7 is located  
22      south of the main load, situated among a  
23      population, which by and large is not going to  
24      benefit from the increased generation, and power  
25      therefrom has to go north into San Francisco



1 through a distribution system that according to  
2 the ISO's 2000 analysis, the San Francisco  
3 Peninsula Long-Term Electric Transmission Planning  
4 Technical Study, which is a horrible name, they  
5 said that if -- they actually considered a 400  
6 megawatt power plant at the Potrero site, not a  
7 540 megawatt plant there.

8 But they found that whereas placing a  
9 400 megawatt power plant southeast of the City, or  
10 in southeast San Francisco, would still require  
11 that distribution system upgrades be made in the  
12 City to accommodate an increasing load there,  
13 because you would have to transport that power  
14 from the location south of the City into the  
15 City. You would have to be making  
16 distribution system upgrades in the City.

17 If you do efficiency, or if you do  
18 onsite generation, you proportionally do not have  
19 to increase distribution system capacity. And  
20 those are real savings that are not addressed by  
21 the staff.

22 So, again, efficiency and onsite  
23 generation can do power loss reduction more  
24 effectively proportional to the savings.

25 The last comment was already raised by

1 Mr. Valkosky regarding reactive power benefits  
2 from alternative supply. And that related to the  
3 ability of inverters that are used to grid connect  
4 direct current generating systems like  
5 photovoltaic systems or fuel cell systems to the  
6 grid, produce and synchronize an AC signal that  
7 you can put onto the grid.

8 Those are capable of doing reactive  
9 power compensation. There are also other means of  
10 doing reactive power compensation like adding  
11 banks of capacitors, which actually would probably  
12 be lower cost than doing the same thing with the  
13 inverters.

14 You would probably want to use your PV  
15 systems to actually generate real power and use  
16 capacitors to correct the, basically what is  
17 excess inductance in the load. If you put  
18 capacitors, they do the opposite thing that  
19 inductors do, and so they get rid of reactive  
20 power demand, without requiring any more real  
21 power to be provided.

22 I think that analysis ought to be done  
23 to determine if there are more cost effective  
24 means of addressing the reactive power problem.

25 The other problem that is associated

1 with reactive power is simply that it requires  
2 more current in all of the lines in order to  
3 transmit the same amount of real power, which is  
4 what actually gets dissipated in our appliances,  
5 and it's what we pay for. What that means is that  
6 then the lines have lower capacity to carry real  
7 power because they're basically being filled up  
8 with this reactive power.

9 That also can be addressed simply by  
10 conservation measures of any kind. In area, you  
11 essentially free up line space by reducing demand  
12 of any kind. Both of them require that current is  
13 in the system. I saw no analysis of that.

14 In conclusion, by considering the 540  
15 megawatt addition as an all-or-nothing proposal,  
16 all centralized power at Potrero or nothing, the  
17 staff's analysis precludes a priori the  
18 possibility of finding a lower impact and fairer  
19 solution to San Francisco's energy problem.

20 Q Now, since preparing your testimony, do  
21 you have any additions or clarifications?

22 A I do. After I prepared my testimony, I  
23 received the December update to the local systems  
24 effects analysis that was prepared by the staff,  
25 and I would like to make a couple of comments

1       thereon. We have the tables.

2               MR. RAMO: There is an additional table.  
3 I wonder if it can just be incorporated into  
4 exhibit 70.

5               HEARING OFFICER VALKOSKY: It will be --  
6 I'm just looking for your attachments, Mr. Ramo.  
7 On exhibit 70?

8               MR. RAMO: That's correct.

9               HEARING OFFICER VALKOSKY: You've just  
10 got the one attachment, right?

11              MR. RAMO: We have the -- the table we  
12 have in there is incorporated in the text, and  
13 then we have one attachment which is a study.

14              HEARING OFFICER VALKOSKY: Right, so  
15 we'll just add this as a second attachment to Ms.  
16 Garbesi's testimony.

17              MR. RAMO: Are there extra copies down  
18 there for the Committee?

19              PRESIDING MEMBER PERNELL: You might  
20 want to make sure that the Committee gets a copy.  
21 We only need two copies.

22              MR. WESTERFIELD: Is this all the copies  
23 you have?

24              MS. GARBESI: I brought 15 copies, I  
25 have no idea what is where right now.

1               PRESIDING MEMBER PERNELL: Here is one  
2 back.

3               (Pause.)

4               PRESIDING MEMBER PERNELL: I think we're  
5 ready.

6               MS. GARBESI: Ready? Okay, thank you.  
7 Sorry about the confusion with the paper.

8               First of all, I want to acknowledge that  
9 the revised local systems effects analysis I think  
10 is a great improvement in elucidating the  
11 implications of the planning criteria and the  
12 conditions of closure for Hunter's Point power  
13 plant, so thank you for that.

14              I had two comments, one of which really  
15 just extends my earlier scenario. What if 120 of  
16 the 540 megawatts were to come from other sources  
17 and/or conservation. And what I do then is say  
18 what are the implications for meeting the planning  
19 criteria and deferring future need for facilities  
20 upgrades.

21              And the second issue is looking at the  
22 timing of completion of Unit 7 versus Jefferson-  
23 Martin, and my concern that it may mean potential  
24 high interim PM10 emissions.

25              So I'll talk first about the deferred

1       need for new facilities. The local systems  
2       effects analysis of the staff looked at the effect  
3       of Unit 7 on future capacity additions, assuming  
4       the CalISO and the bay area planning criteria,  
5       which is basically this triple outage criteria,  
6       and I'm not sure if there is a specialized name  
7       for that; but it was the idea that the largest  
8       transmission line would go down, the largest in-  
9       area generation facility would go down, and one of  
10      the 52 megawatt combustion turbines would also be  
11      down. And the requirement then is that the load  
12      needs to be able to be met by the residual  
13      facilities, both generation and transmission.

14               The analysis finds that Unit 7 provides  
15      substantial benefits with respect to the case that  
16      Hunter's Point Power Plant is retired, and Unit 7  
17      is not built, was my understanding of that  
18      analysis. And it was specifically that Unit 7  
19      would provide 207 megawatts of what we can call  
20      extra planning capacity; planning capacity meaning  
21      that stuff that is left over after you assume the  
22      other things are not working that we just  
23      outlined.

24               So, the finding was that it would  
25      provide 207 megawatts of extra planning capacity,

1       which would give about four years of deferred need  
2       for new facilities if a 3 percent demand growth  
3       was assumed.

4               And I say, well, what happens if instead  
5       we use my scenario where you have 120 megawatts  
6       from one source, and say, 420 from the scaled-down  
7       Unit 7?

8               In that case, you would have 327  
9       megawatts of extra planning capacity instead of  
10      the 207 that were mentioned before. And that buys  
11      you almost seven years of deferred need for new  
12      facilities. And again, you get that given the  
13      same total 540 megawatts that are installed in  
14      that time.

15              So you buy reliability, and you buy  
16      having to have less need for redundant facilities  
17      in order to meet planning criteria.

18              The final issue was the timing of  
19      completion of Unit 7 versus Jefferson-Martin line.  
20      Again, the revised LSE indicates that closure of  
21      the Hunter's Point power plant, although now I  
22      guess we find out that it's really only closure of  
23      Unit 4 of the Hunter's Point power plant, depends  
24      on the planned transmission upgrades being  
25      completed including the Jefferson-Martin line,

1       regardless of when Unit 7 comes online.

2               Again, the analysis says that Unit 7 is  
3       planned to come online in 2005, and I understand  
4       that those dates are not firm, but there is the  
5       possibility, given our current understanding, that  
6       Unit 7 comes online in 2005. And not until 2006  
7       are the conditions met that trigger initiation of  
8       the process to retire Hunter's Point power plant,  
9       or Unit 4 we should say at this point.

10              Consequently, it appears likely that  
11       closure of Hunter's Point might not occur until  
12       more than a year after Unit 7 is online, and then  
13       what would happen to emissions.

14              I mean, already, in-area PM10 emissions,  
15       according to the applicant, would go up by 68  
16       percent, not accounting for mitigations. But it's  
17       possible in that case that if -- I took a simple  
18       case in table two of the attachment that I handed  
19       out.

20              And I said, okay, given that we don't  
21       know what the market is going to solicit in terms  
22       of power, none of us know how that is going to  
23       work. I said, well let's just look at a case  
24       where I used the projected run-time of Hunter's  
25       Point, the way it was projected in the applicant's



1 original reliability analysis. And I say, okay  
2 keep Hunter's Point online operating the way they  
3 said it would operate, had Unit 7 not been built.

4 And I say, okay, add to that what Unit 7  
5 was projected to be, the run-time, the anticipated  
6 run-time for Unit 7, excuse me, which had assumed  
7 Hunter's Point was going down. It's not  
8 inconceivable that Unit 7 would simply run as much  
9 as it could within the market.

10 If you add those two things together,  
11 then the in-area emissions could go up by 120  
12 percent, more than double the local PM10  
13 emissions. And I find that a real concern that  
14 ought to be addressed by the proceedings.

15 And that's it, thank you.

16 MR. RAMO: The witness is now tendered  
17 for cross-examination.

18 PRESIDING MEMBER PERNELL: How are you?

19 MS. GARBESI: Good.

20 PRESIDING MEMBER PERNELL: Should I call  
21 you Doctor or --

22 MS. GARBESI: You can call me anything  
23 you want.

24 PRESIDING MEMBER PERNELL: My  
25 understanding is your -- well, maybe not

1 criticism, but your statement is that the staff  
2 and applicant didn't look for another alternative,  
3 and that if you reduce Unit 7 by 120 megawatts and  
4 use other sources that might be a better benefit.

5 MS. GARBESI: Yes.

6 PRESIDING MEMBER PERNELL: So the other  
7 sources that you're talking about, is that  
8 generation? If so, what is the size and --

9 MS. GARBESI: Well, it, okay --

10 PRESIDING MEMBER PERNELL: Well, my  
11 question is what are the other sources you're  
12 talking about to get 120 megawatts of reliable  
13 power?

14 MS. GARBESI: I'm not specifying here  
15 what they would be, but it could be any other  
16 generation source. It could be another combined  
17 cycle facility, two small combined cycle  
18 facilities. It could other alternative generation  
19 and conservation.

20 The specifics of what you use do not  
21 affect my argument as to the benefits under the  
22 planning criteria or -- they could affect the  
23 benefits under reliability.

24 PRESIDING MEMBER PERNELL: Right, but on  
25 the specifics, there has to be a likelihood that

1       they will materialize, given the, you know, given  
2       the siting criteria and everything else.

3               So, have you done any analysis to say  
4       that there is a good likelihood that if I put a,  
5       you know, a 50 megawatt plant in a different area  
6       that there is a good likelihood that that will be  
7       up and running at a certain time?

8               MS. GARBESI: I would have to defer that  
9       to the Commission. You're more aware of the  
10      roadblocks to getting facilities online fast.

11              For things like conservation and  
12      renewables though, I know it can happen very fast.  
13      Almost all my electricity is from PV panels. And  
14      that system was on my house in six months from the  
15      time I was interested in doing it. So, some  
16      things can happen a lot faster than a new power  
17      plant.

18              PRESIDING MEMBER PERNELL: Right. No, I  
19      understand that. But in the interest, -- I mean  
20      if we look PVs and we're trying to get 120  
21      megawatts, that's a lot of panels. So, I'm just  
22      trying to -- for the alternative, and I think you  
23      have a good argument, but whether or not some of  
24      those things are realistic in terms of getting  
25      them up in a timeframe that we're looking at,

1 is -- I guess my question is, whether you did some  
2 analysis to -- that will give us a likelihood that  
3 some of those alternatives will actually happen.

4 MS. GARBESI: I have not -- I'm not  
5 prepared to discuss that today. I did, a couple  
6 years ago, some analysis on the feasibility of  
7 renewables supplying power for San Francisco. But  
8 I am not prepared to discuss today what the  
9 combination could be.

10 PRESIDING MEMBER PERNELL: Just one  
11 final question. Are you suggesting that the --  
12 regardless of whether the Jefferson-Martin line  
13 materializes, that there would have to be some  
14 upgrades of transmission in San Francisco?

15 MS. GARBESI: I'm not making any comment  
16 thereon. I would leave that to the ISO people to  
17 analyze.

18 What I was doing in my analysis, was  
19 following their logic, which says that if you  
20 have -- I think you're referring to the argument  
21 that if you had 207 excess megawatts of planning  
22 capacity relative to Hunter's Point not being  
23 there and Unit 7 not being there, you've got four  
24 years extra, four years of deferred need to bring  
25 in new facilities. Is that what you're referring to?

1           PRESIDING MEMBER PERNELL: Well, no,  
2 perhaps --

3           MS. GARBESI: Sorry.

4           PRESIDING MEMBER PERNELL: Well, what I  
5 thought I heard you say, and I could be wrong, is  
6 that regardless of whether Potrero 7 comes online,  
7 or the Jefferson-Martin line, that there will have  
8 to be upgrades in the system in the San Francisco  
9 area on the transmission line. I could have -- if  
10 you didn't make that statement, then that's fine.

11          MS. GARBESI: I did not make that  
12 statement. I'm not sure what you're --

13          PRESIDING MEMBER PERNELL: All right.  
14 Let me ask it this way. Do you think that San  
15 Francisco needs addition transmission upgrades  
16 now? Without Potrero 7 even coming online. Do  
17 you think San Francisco needs additional  
18 transmission upgrades?

19          MS. GARBESI: I have not done that  
20 analysis. I would assume that the ISO's analysis  
21 in their 2000 report on the planned transmission  
22 needs was accurate, given the constraints of that  
23 report. That they needed Jefferson-Martin, for  
24 example, and the other upgrades that were being  
25 met. But I haven't done that analysis.

1           PRESIDING MEMBER PERNELL: Okay. Are  
2           you reasonably certain that Jefferson-Martin will  
3           materialize? Even though there is a need, I mean  
4           there are reports that say there is a need for  
5           Jefferson-Martin.

6           MS. GARBESI: My opinion has no bearing  
7           on that, really. I --

8           PRESIDING MEMBER PERNELL: It's  
9           important to me.

10          MS. GARBESI: I'm not close enough to  
11          the institutions that make it happen for my  
12          opinion to be useful on that, I think.

13          PRESIDING MEMBER PERNELL: Okay, well  
14          that's fine. That's all I have.

15          HEARING OFFICER VALKOSKY: I'd like to  
16          preface my questions with the understanding that  
17          we will be revisiting some of your points raised  
18          in, specifically regarding environmental justice.  
19          We'll do that in depth, I'm sure, in  
20          socioeconomics. And we will have an alternatives  
21          hearing, so we'll be dealing with a lot of that.

22          But, just prefatory, were your concerns  
23          on the environmental justice portion of your  
24          testimony the same if it could be shown that the  
25          reductions in emissions would occur in another

1 minority community, albeit not the southeast San  
2 Francisco community?

3 MS. GARBESI: I think you'd have to -- I  
4 think one would have to look carefully at what  
5 those tradeoffs are. Southeast San Francisco has  
6 a history of an extremely heavy pollution burden.  
7 And it appears from the data that there are  
8 serious public health impacts already from those.

9 How you trade off making another  
10 population sicker with an already vulnerable  
11 population even sicker, I am not an expert on how  
12 one would do that.

13 HEARING OFFICER VALKOSKY: Okay, so then  
14 I take it, even if you were -- even if it could be  
15 shown, and I'm not suggesting it can be, just  
16 hypothetically if it could be shown that a  
17 comparable minority population was benefitting as  
18 a result of the operation of the project, you  
19 would still have the concerns about the local  
20 community here in San Francisco?

21 MS. GARBESI: In the context of if this  
22 community is in a situation where they're living  
23 in an area that is out of compliance with PM10  
24 emissions, and those PM10 emissions might go up a  
25 lot, and the other community was below the

1 standard which at least gives us a threshold, then  
2 that would not be a good tradeoff.

3 I think it does depend on the conditions  
4 that you're looking at. If you make a --

5 HEARING OFFICER VALKOSKY: Well, --

6 MS. GARBESI: -- relatively clean  
7 environment cleaner, versus making a --

8 HEARING OFFICER VALKOSKY: Granted,  
9 granted, I have no issue with that.

10 MS. GARBESI: Yeah, okay.

11 HEARING OFFICER VALKOSKY: I'm just  
12 trying to hypothetically get a grasp on this.  
13 How about if the other community, who we're  
14 reducing emissions in, was very similar to the  
15 existing community.

16 I mean, that's what I'm asking you, is  
17 your concern just localized to the southeast San  
18 Francisco area, or is the concern transferrable to  
19 another identifiable environmental justice  
20 population?

21 MS. GARBESI: My real concern is that  
22 you're reducing emissions as a whole over the  
23 state in a way that might not have significant  
24 public health benefits. And those are coming at a  
25 cost of a very vulnerable community.



1 HEARING OFFICER VALKOSKY: Okay, so  
2 that's --

3 MS. GARBESI: That's the nature of my  
4 concern.

5 HEARING OFFICER VALKOSKY: Is it fair,  
6 in part of your testimony, again just regarding  
7 reliability, to say that your basic position is  
8 that Potrero 7 would improve reliability in the  
9 local area to an extent, but not as great as  
10 reliability could be improved through the adoption  
11 of other measures.

12 MS. GARBESI: Yeah.

13 HEARING OFFICER VALKOSKY: I mean, yeah,  
14 you're not challenging the basic improvement  
15 that --

16 MS. GARBESI: No.

17 HEARING OFFICER VALKOSKY: Okay. How  
18 about the other factors that staff and the ISO  
19 have identified as benefits, such as increase in  
20 operational flexibility, ability to integrate into  
21 the utility system, and those kind of factors? Do  
22 you have any issue with those?

23 MS. GARBESI: Not that they're -- not  
24 that Unit 7 wouldn't aid in those things, but I  
25 think even in that case, you could provide greater

1       benefits. It's easy to think about just having  
2       two combined cycle plants. I mean, that's the  
3       easiest model that you could think about that  
4       would be an alternative.

5               HEARING OFFICER VALKOSKY: Right.

6               MS. GARBESI: That would give you  
7       greater flexibility. It would give you more  
8       ability to meet planning criteria without  
9       redundant facilities.

10              HEARING OFFICER VALKOSKY: Right.  
11       Theoretically, that's true. Now you're not aware  
12       of any proposal to install two combined cycle  
13       plants in the area, are you?

14              MS. GARBESI: I am not.

15              HEARING OFFICER VALKOSKY: Okay. How  
16       about the 120 megawatts that you identified, and  
17       Commissioner Pernell was talking about. Are you  
18       aware of any particular plans to install  
19       photovoltaics to meet conservation goals or  
20       anything like that?

21              MS. GARBESI: No, that was a  
22       hypothetical that I raised in the hope that people  
23       look for optimal solutions, rather than adequate  
24       solutions.

25              HEARING OFFICER VALKOSKY: Okay, thank

1       you.   Mr. Carroll?

2                   MR. CARROLL:   Thank you.   Good evening.

3                               CROSS-EXAMINATION

4       BY MR. CARROLL:

5               Q     I want to ask first a question about a  
6       statement at the very end of your response number  
7       2.   It's the last phrase, which is, I believe, the  
8       staff should seriously consider this option.   What  
9       option is it that you're referring to there?

10              A     An option of not having a 540 megawatt  
11     monolithic unit, but a downsized unit and then  
12     some amount of, some significant amount of  
13     generation coming from other sources.

14              Q     Okay, so this is the 120 megawatts  
15     coming from other sources?

16              A     Yes, although I note that my 120  
17     megawatts is a somewhat arbitrary choice of an  
18     amount.   But, I think it had a good basis given  
19     the ability to meet trickle-load with in-area  
20     sources.

21              Q     And you said that you weren't aware of  
22     any proposals for the 120 megawatts.   You  
23     mentioned a couple of possibilities.   But what  
24     possibilities would you have -- I suppose there  
25     are endless --

1           A     There are, yes.

2           Q     -- possibilities, so --

3           A     I don't have a particular scenario in  
4     mind.

5           Q     Okay.  What guidelines then would you  
6     provide to the applicant or the staff for defining  
7     the scope of what they look at, given that there  
8     would be endless possibilities for providing that  
9     120 megawatts?

10           Or, as you said, the 120 is arbitrary to  
11     begin with, so they could presumably pick any  
12     range, any level of generation, and then within  
13     each of those levels of generation, have endless  
14     possibilities.

15           How would you guide the staff in  
16     managing the scope of that project?

17           A     Well, it wasn't entirely arbitrary, the  
18     nature of my analysis, in finding that 120  
19     megawatts.  It's the amount that gives you that  
20     substantial increase in reliability from in-area  
21     facilities.

22           But I think that that's what  
23     institutions and people who are involved in them  
24     are good at.  You look at a range of scenarios,  
25     you do a sensitivity analysis, and you see which

1 kinds of things give you the most leverage and the  
2 least leverage accounting for all kinds of costs,  
3 like environmental and social costs, as well as  
4 generation costs.

5 Q Okay. So you mentioned, I think, two,  
6 and correct me if there were others, one was  
7 photovoltaics, and the other was smaller gas  
8 powered generation. Did I hear that correctly?

9 A Smaller combined cycle facilities,  
10 conceivably, efficiency fuel cells. I think that  
11 the range should be considered.

12 Q Okay, but you have not analyzed the  
13 feasibility associated with any of those  
14 alternatives?

15 A I have not done so.

16 Q Or have you --

17 A Well, do you mean the feasibility -- I  
18 know that individually, like it's trivially easy  
19 to get a PV system online fast; and I know that  
20 efficiency can be implemented rapidly. So I know  
21 that at some level you can do this. I haven't  
22 looked at the details of providing 120 megawatts.

23 Q Right, and that really was my question.  
24 Let's assume for purposes of discussion that we're  
25 going to stick with the 120 megawatts. What sort

1 of feasibility analysis has been undertaken with  
2 respect to getting that 120 megawatts from  
3 photovoltaics or from another smaller combined  
4 cycle facility.

5 A I have not done that analysis.

6 Q Okay. And I assume no cost analysis of  
7 what those alternatives would be?

8 A No, I would leave kind of thing up to, I  
9 would hope, the staff that has the resources to do  
10 that.

11 Q Okay. You indicate, also in response to  
12 that-- well, let me ask you one other question.  
13 I assume also then that you haven't undertaken any  
14 analysis of what the environmental impacts  
15 associated with these alternatives would be?

16 A I know that from years of state analysis  
17 that certain types of alternative energy has been  
18 widely acknowledged, or alternative sources has  
19 been widely acknowledged as preferable to fossil  
20 fuel combustion. Which would include efficiency  
21 first, because there is only minor impacts, and  
22 sometimes negative impacts with associated  
23 technology changes that are needed.

24 And photovoltaics too, are widely  
25 acknowledged to have lower impacts.

1           You would be more knowledgeable about  
2           the possibility of having two smaller combined  
3           cycle units, for example, and the potential  
4           differences in environmental impacts than I would.

5           Q     Okay, so when you talk about the  
6           potential of such a strategy, and again this is in  
7           response to mitigate environmental justice  
8           concerns, whether or not that happened would  
9           depend on, I suppose, what the alternative is?

10          A     Whether there were environmental justice  
11          benefits?

12          Q     Right. You --

13          A     Yes, clearly. So if one was designing  
14          how one would hobble together 120 megawatts, you'd  
15          want to think about it carefully to make sure that  
16          you don't incur unacceptable impacts.

17          Q     And you mentioned efficiency. How would  
18          you see a program being implemented to obtain 120  
19          megawatts, or some portion thereof, through  
20          efficiency? Who would be responsible for -- I'm  
21          sorry -- who would be responsible for developing  
22          and implementing such a program in San Francisco,  
23          if you know?

24                 MR. RAMO: I'm going to make an  
25          objection at this point. Ms. Garbesi, in her

1 testimony, indicated that since there is going to  
2 be an alternatives analysis, she wasn't prepared  
3 to go into detail on what the alternative is.

4 She will be doing that analysis; she'll  
5 be reviewing the San Francisco alternative plan;  
6 and she'll be glad to come here and answer any  
7 question you may have when she completes her  
8 analysis.

9 But rather than to have her design the  
10 alternative today, I suggest we stay within the  
11 limits of her testimony.

12 MR. CARROLL: Well, I'm happy if there  
13 are questions that you'd prefer to defer to  
14 another day. Just let me know what those are, and  
15 I'm happy to do that.

16 I think what I've asked thus far is  
17 within the bounds of the existing testimony.  
18 There have been some pretty broad statements about  
19 what the effects and benefits of this alternative  
20 would be.

21 And what I'm trying to understand is how  
22 we can make those broad statements about the  
23 effects of the alternative if we don't know what  
24 the alternative is.

25 MR. RAMO: Well, she didn't make a broad



1 statement about the effect of the alternatives.

2 Your question was how would she implement an  
3 efficiency program, which --

4 MR. CARROLL: Let me --

5 MR. RAMO: -- the Commission spends  
6 years figuring out how to implement efficiency --

7 HEARING OFFICER VALKOSKY: Right, you  
8 know, I prefaced -- at least I prefaced my  
9 questions with the understanding that we will be  
10 doing environmental justice in depth and we will  
11 be doing alternatives in depth.

12 So to the extent I think we can have  
13 some broadbrush questions, that's appropriate.

14 MR. CARROLL: Okay, let me defer that  
15 question. Let me ask a somewhat different  
16 question. If you feel this one should be deferred  
17 as well, that's fine.

18 BY MR. CARROLL:

19 Q What about the development of Unit 7, in  
20 your mind, would preclude gaining efficiency  
21 benefits -- or, what about building Unit 7 would  
22 preclude the ability to reduce demand through  
23 efficiency as well? In other words --

24 MR. RAMO: I would object to this.

25 Assumes that she testified that Unit 7 would

1 preclude. I don't think she's testified that Unit  
2 7 precludes an efficiency program or any other  
3 alternative at this point.

4 HEARING OFFICER VALKOSKY: I think  
5 that's correct, I'll sustain the objection.

6 BY MR. CARROLL:

7 Q So your testimony would be that we  
8 could gain 120 megawatts, or some portion thereof,  
9 through efficiency, and have Unit 7 as well? In  
10 other words, the development of Unit 7 wouldn't  
11 preclude that.

12 A I'm saying because the potential  
13 benefits are conceivably very large in terms of  
14 reliability, in terms of deferred need for  
15 capacity upgrades, in terms of potential pollution  
16 emissions reductions, and therefore potential  
17 environmental justice concerns, that those  
18 possibilities are large enough to warrant a more  
19 careful look.

20 Q In response to your response three,  
21 beginning of the third paragraph of that response,  
22 clearly system reliability can be enhanced if some  
23 of the 540 megawatts were supplied by other means.  
24 Doesn't that depend, to some extent, on what the  
25 other means are?

1           A     Sure.

2           Q     So we can't really make that blanket  
3 statement, or can we?

4           A     I can make the statement that there are  
5 plausible means of breaking up the 540 megawatts  
6 in various ways that would provide you greater  
7 reliability.

8           Q     Okay.

9           A     And that should be looked into.

10          Q     But it's not necessarily true that  
11 reliability is enhanced if some of the 540  
12 megawatts is supplied by other means?

13          A     It is necessarily true that if you had  
14 two identical plants providing 250, what, plus 20,  
15 270 megawatts, you would be -- and they operate  
16 independently of each other, that that system  
17 would be more reliable, because you would be much  
18 less likely to lose 540 megawatts at once.

19          Q     What if you had a smaller combined cycle  
20 facility and another facility that was not  
21 identical to that combined cycle facility, but  
22 let's say it was two simple cycle generating  
23 units. Is that necessarily more reliable than a  
24 larger combined cycle facility?

25          A     You would -- as the staff did admirably

1 in its own analysis, you would look at  
2 probabilities for the proposed type of facility.  
3 And that's exactly how they crafted their  
4 analysis.

5 Q So, in other words, two isn't always  
6 better than one, it depends on what the two are?  
7 Is that a fair statement?

8 A Certainly depends on what the two are.

9 Q In your response number five, there is  
10 some discussion about the San Francisco operating  
11 criteria. Do you understand the San Francisco  
12 operating criteria to require that the critical  
13 load be met by in-City or in-area sources?

14 A Certainly not. What I was doing with my  
15 analysis was saying let's use that as a benchmark.  
16 But, that is not my understanding of the way the  
17 criteria work.

18 Q In response six, third-to-the-last line  
19 of that response, again there is a phrase, the  
20 staff ignores an alternative. And by that  
21 alternative, I assume that we are talking about  
22 the alternative that we've been discussing thus  
23 far, which is the 120 megawatts from some other  
24 source?

25 A Yes.

1 Q Not anything more specific than that?

2 A Yes.

3 Q With respect to response number seven,  
4 and the statements that particulate emissions  
5 would increase by almost 70 percent, do you know  
6 what portion or what percentage of the total  
7 particulate emissions in the area are represented  
8 by emissions from the generating facilities?

9 A I'm not including those in my analysis.

10 Q Okay. So your statement is that  
11 emissions --

12 A It -- my statement was related to  
13 emissions from power plants in-area solely.

14 Q Okay. So you don't know what effects an  
15 increase of emissions from power plants of 70  
16 percent would have on overall emissions?

17 A Well, I know something about it. I know  
18 that it was deemed significant in these  
19 proceedings and required mitigation, so at some  
20 level I have an idea.

21 Q I'm going to skip a number of questions  
22 on environmental justice and air quality, in view  
23 of Mr. Valkosky's direction, and we'll come back  
24 to those.

25 Skipping ahead to question ten. When

1       you say that options exist, I assume what you mean  
2       by that is that there is technology available to  
3       theoretically accomplish the objectives that  
4       you've laid out, as opposed to any specific  
5       proposals that you're aware of?

6           A       There are technologies that exist that  
7       not only in theory accomplish these objectives to  
8       the degree to which they are implemented, but are  
9       actually used for that purpose. Like banks of  
10      capacitors, for example, being used by both  
11      utilities and industrial sources in order to  
12      offset inductance, you know, excessive inductive  
13      reactance.

14          Q       But you're not aware of any specific  
15      proposals that anyone has made to do these sorts  
16      of things in San Francisco?

17          A       Well, the City. The City has some plans  
18      to implement a portion thereof, but I'm not  
19      prepared to discuss the City's proposal. I know  
20      that there are people who are discussing what is  
21      essentially variants on this.

22          Q       Who are the people within the City that  
23      are discussing that?

24          A       The Department of the Environment, and I  
25      guess Hetch Hetchy together, are the ones that

1       crafted the City's plan, but it's not -- that's  
2       not my area, so they ought to address it.

3           Q     So you're talking about the draft energy  
4       plan that those two --

5           A     Yeah.

6           Q     Okay. With respect to question -- your  
7       response to question ten, did you have any  
8       discussion with PG&E as to whether or not they  
9       would be amenable to such a proposal? Or are you  
10      aware or not of whether the City, those within the  
11      City who are promoting such a proposal have had  
12      any such discussions?

13          A     Can you be more specific about the  
14      nature of the proposal? We --

15          Q     The proposal that you're setting forth  
16      in response ten.

17          A     Well currently there are already  
18      extensive agreements to allow grid connections  
19      with these types of generation systems. So  
20      actually doing the grid connect with inverters  
21      with these kinds of capabilities is something that  
22      there would be no barriers to. Whether PG&E would  
23      be wanting somebody else to reduce the reactive  
24      load, is that what you're asking?

25          Q     Yes, thank you.

1           A     I would think PG&E would be delighted;  
2     it lowers their costs for free.  If they could get  
3     everyone with an excessive inductive reactance to  
4     add a few capacitors their costs would go down  
5     automatically, so --

6           Q     But I assume that there may be other  
7     factors that would impinge on their decision other  
8     than costs?

9           A     I guess I'll deal with this more  
10    narrowly.  I'm not a legal expert, so I'm not sure  
11    what the contract issues might be, if any.

12          Q     I wasn't really headed toward any legal  
13    issues.  I guess, let me just restate the initial  
14    question, and we can move on.  You haven't had any  
15    discussions with PG&E about --

16          A     I have not.

17          Q     Okay.  And help me understand how, if  
18    the problem that is sought to be addressed is  
19    voltage support on the transmission system, how  
20    these actions, which are really focused on the  
21    distribution system, address that.

22          A     Well the reason you need voltage support  
23    is if you can't adequately compensate for  
24    inductive reactance.  If you can't do that, it  
25    means that the magnetic field in the generators



1 gets weakened, and therefore they're not putting  
2 the voltage out that they should be. They don't  
3 actually produce the line voltage that they need  
4 to produce. So that's why those two things are  
5 connected.

6 If you can reduce reactive power  
7 demands, then you don't have something that's  
8 essentially scavenging the magnetic field of the  
9 generators, and they don't have to compensate.  
10 Does that make sense?

11 So anything that addresses the reactive  
12 power problem helps you.

13 Q Thank you.

14 MR. CARROLL: Those are all the  
15 questions we have, thanks.

16 HEARING OFFICER VALKOSKY: Thank you,  
17 Mr. Carroll. Mr. Westerfield?

18 MR. WESTERFIELD: Thank you, Mr.  
19 Valkosky. Ms. Garbesi, how are you? I just have  
20 a couple of questions.

21 CROSS-EXAMINATION

22 BY MR. WESTERFIELD:

23 Q Are you planning to testify on  
24 alternatives later in these proceedings?

25 MR. RAMO: Yes, we've represented that.

1 BY MR. WESTERFIELD:

2 Q And I know, I thought I caught in your  
3 initial testimony that you thought that the local  
4 population in southeast San Francisco would not  
5 benefit from generation at Unit 7. Did you say  
6 that, did I hear you right?

7 A The population immediately surrounding  
8 the power plant area would not have comparable  
9 benefits to those downtown.

10 Q Okay, and could you just explain why  
11 that is, or why you say that?

12 A Given the growth in rich-poor gap and  
13 who lives near the power plants and who lives and  
14 works downtown, people near the power plant are  
15 having lower incomes. They're not going to have  
16 extra money to increase their own power usage.  
17 The demand is going up primarily for the wealthy.

18 Q Okay, so are you saying that they're not  
19 going to benefit as much because they don't use as  
20 much power as the wealthy?

21 A Yes, and they can't afford to buy more.

22 Q Now, I think you mentioned, I was going  
23 to direct you to page six of your testimony,  
24 response nine, and read just a couple sentences  
25 from what you said.

1           You said that: I'm also not asserting  
2           that alternatives could currently meet the entire  
3           demand, but it is clear that alternatives could  
4           reduce reactive power demands and associated  
5           problems with lower cost to local population. It  
6           is not clear that the staff recognizes this fact.  
7           Moreover, it appears that the staff might consider  
8           renewables a liability in that regard."

9           So first off, when you say, I am not  
10          asserting that alternatives could meet the entire  
11          demand, how should the balance in demand be met?

12          A     I think that's something that needs to  
13          be analyzed carefully, and I would hope that the  
14          state would take that on.

15          I would try to use the maximum,  
16          particularly in an area where it looks like you're  
17          going to be adding a pollution burden to an  
18          already overburdened population, that it would do  
19          whatever it could to figure out how to mitigate  
20          that to the greatest extent possible, particularly  
21          considering that they won't benefit.

22          They will benefit from reliability  
23          increases, but not from increased generation  
24          overall.

25          Q     So have you analyzed that, yourself, how

1       that difference in demand should be met?

2           A     In terms of providing the 120 megawatts,  
3       is that where --

4           Q     No, you say -- I'm sorry, you said, I am  
5       not asserting that alternatives could currently  
6       meet the entire demand --

7           A     Okay, so the 540 megawatts then.

8           Q     So I guess I'm assuming that there is  
9       some difference in demand that the alternatives  
10      could not meet.  So I'm just asking have you  
11      analyzed how that difference should be met?

12          A     I am not prepared to discuss that today.

13          Q     Okay, are you planning on discussing  
14      that during alternatives?

15               MR. RAMO:  I would object to a question  
16      asking what her testimony is going to be in the  
17      future.  We're going to present it at the time  
18      that the Committee says to present it, and he'll  
19      know full on what her testimony and analysis is.

20               HEARING OFFICER VALKOSKY:  Sustained.

21      BY MR. WESTERFIELD:

22          Q     Okay.  That's fine.  I think you also  
23      mentioned here that it is not clear that  
24      alternatives could reduce -- but it is clear that  
25      alternatives could reduce reactive power demands

1 and associated problems with lower costs to the  
2 local population. It is not clear that the staff  
3 recognizes this fact.

4 I'm not sure I understand --

5 A Why I said it?

6 Q Yeah, why is that true?

7 A Because of the quote that I include in  
8 the middle paragraph on page six. It sounds to me  
9 like they are considering renewables potentially  
10 as a liability in that regard. That may not be  
11 the reading that I should make of it, but it  
12 sounds that way to me.

13 Q Okay, that renewables are a liability in  
14 meeting the reactive power demands?

15 A Yeah.

16 Q And when you say associated problems  
17 with lower costs to the local population --

18 A Environmental costs, I should have  
19 specified.

20 Q So you're not suggesting that it would  
21 be cheaper for individual homeowners to have their  
22 own sort of mini-reactive power inverters?

23 A They're -- there are different options  
24 that deal with -- that address different parts of  
25 the reactive power problem, some of which are more

1 expensive, and some of which are generally less  
2 expensive than generation.

3 Q And, I think you also sort of ended, at  
4 least at this point, you say, it appears that the  
5 staff may not consider renewables a liability in  
6 that regard.

7 I'd just like to point out that, gosh,  
8 the Energy Commission is very very aggressive and  
9 leading in its efforts to promote renewables  
10 across the state. And I know they do everything  
11 in their power to make renewables more affordable  
12 to utilities and individuals. So, if it's any  
13 comfort, I think we're working very hard on that.

14 A I stand corrected. I stand corrected.  
15 I'm actually comforted that you recognize reactive  
16 power effects, too -- benefits, too.

17 MR. RAMO: I'm not sure what the  
18 question was there, but if my witness is  
19 comforted, I'm fine.

20 (Laughter.)

21 PRESIDING MEMBER PERNELL: Well, we got  
22 agreement, so we --

23 HEARING OFFICER VALKOSKY: Exactly,  
24 settle for an agreement.

25 //

1 BY MR. WESTERFIELD:

2 Q All right, just looking on page seven, I  
3 think in this middle paragraph that starts with:  
4 "There are a number of ways energy efficiency and  
5 alternative energy sources can address these  
6 issues." And then I think you talked about the  
7 benefits of onsite generation.

8 It says, "Energy efficiency and onsite  
9 generation by reducing the local system demand for  
10 real power can alleviate transmission system  
11 congestion, making reactive power consumption of  
12 ampacity less of an issue."

13 What do you mean here by onsite?

14 A If you generate power at the point of  
15 use. The basic point there is any in-area  
16 generation will achieve the lowering of demand on  
17 the transmission and distribution system.

18 Q Okay, so I mean I'm trying to wonder  
19 how, sort of where the line should be drawn here.  
20 I mean, potentially, you've got tens of thousands,  
21 hundreds of thousands of customers in San  
22 Francisco. And I guess if everybody had an onsite  
23 Omnion 3200, then it would reduce the demand  
24 tremendously. So, how far should it go?

25 MR. RAMO: Maybe you could clarify the

1 question when you say how far it should go.

2 MR. WESTERFIELD: Well, she's saying  
3 that onsite generation is going to be a good thing  
4 for reactive power. But potentially everybody  
5 could have their own Omnion 3200 invertor. Is  
6 that what she is advocating?

7 MR. RAMO: Well, if the question is what  
8 specific alternatives she and the clients are  
9 going to be advocating, I suggest that we defer  
10 that to when we're dealing with alternatives. And  
11 if we're making a specific proposition about that,  
12 you're welcome to cross-examine.

13 MR. WESTERFIELD: Okay, so you're not  
14 making any propositions about that now?

15 MR. RAMO: That's right.

16 MR. WESTERFIELD: That's all I have.

17 HEARING OFFICER VALKOSKY: Thank you,  
18 Mr. Westerfield. Ms. Minor?

19 MS. MINOR: The City has no questions.

20 HEARING OFFICER VALKOSKY: I'd like to  
21 clarify one point. I earlier said that we would  
22 defer the alternatives and the socioeconomic  
23 environmental justice portion of Ms. Garbesi's  
24 testimony to future hearings. Mr. Ramo, you  
25 indicated that Ms. Garbesi would appear on



1 alternatives, that's correct, right?

2 MR. RAMO: That's correct.

3 HEARING OFFICER VALKOSKY: Now how about  
4 socioeconomics, where we would also do  
5 environmental justice?

6 MR. RAMO: We're having -- we have  
7 another witness addressing air quality. There is  
8 clearly some overlap here, and she'd be addressing  
9 public health. So, we're trying to figure out  
10 exactly how to address the environmental justice  
11 issues on that score.

12 HEARING OFFICER VALKOSKY: Okay.

13 MR. RAMO: I expect the other witness  
14 will be the one on environmental justice. But  
15 when Ms. Garbesi is testifying about alternatives,  
16 which will in part be based on evidence that's  
17 been produced on these other issues, she would  
18 discuss environmental justice to the extent they  
19 impact alternatives.

20 HEARING OFFICER VALKOSKY: Right. My  
21 point being, it pertains to something Mr. Carroll  
22 said, that he was going to defer some of his  
23 environmental justice questions. And again, I was  
24 operating under the assumption that Ms. Garbesi  
25 would appear later.

1           Mr. Carroll, are there any questions you  
2     feel that you have to ask Ms. Garbesi, given the  
3     fact that she may or may not be here?

4           MR. CARROLL: I guess I would say no,  
5     tonight. But I may not be so flexible when we get  
6     to alternatives if I'm told that it's an EJ issue,  
7     recognizing that she won't be back on EJ. So,  
8     I'll defer the other questions that I had tonight  
9     with the understanding that Ms. Garbesi would  
10    answer those questions when she's here on  
11    alternatives, even if they fall into environmental  
12    justice, provided it's within the scope of her  
13    direct testimony.

14          MR. RAMO: That's fine with me, I would  
15    have no objection to questions --

16          HEARING OFFICER VALKOSKY: Okay, fine  
17    that's great, as long as we all understand that.

18          MR. RATLIFF: Mr. Valkosky, if I may, I  
19    know there has been talk about environmental  
20    justice and how it will be done and the suggestion  
21    that it will be under the topic of socioeconomics.

22                 And yet, at least what the staff would  
23    propose, and has thought that it would probably be  
24    doing, would be to try to discuss environmental  
25    justice in the context of the areas where we have

1 identified potentially significant impacts such as  
2 air quality and public health. And would probably  
3 do that on a panel basis with areas such as  
4 alternatives included.

5 The socioeconomics issue will relate  
6 primarily to the demographics, at least that  
7 testimony will primarily be the demographics. But  
8 that probably won't be the heart of the  
9 environmental justice discussion. At least as  
10 we've considered it.

11 HEARING OFFICER VALKOSKY: Okay, so do  
12 you think you could keep environmental justice out  
13 of socioeconomics?

14 MR. RATLIFF: No. Our socioeconomics  
15 witness will be the person who testifies as to the  
16 demographics of the community, but --

17 HEARING OFFICER VALKOSKY: Right, which  
18 is directly --

19 MR. RATLIFF: -- not to the impacts and  
20 the environmental justice issues themselves, which  
21 will be -- since that relates to the impacts of  
22 the project. We want to have the witnesses who  
23 actually have analyzed the impacts of the areas  
24 where we believe there may be impacts, to be the  
25 witnesses.

1           But, this is something that perhaps we  
2       need to discuss further to decide on the best way  
3       to do this. But I just wanted -- since the  
4       illusion of the Committee was in fact that this  
5       was all going to be under socioeconomics, I just  
6       wanted to say that's not really what we've  
7       contemplated in the case.

8           HEARING OFFICER VALKOSKY: Okay, well  
9       thank you for that clarification. I mean, I think  
10      the Committee's only concern is that this issue is  
11      addressed in a --

12         PRESIDING MEMBER PERNELL: Thoroughly  
13      addressed.

14         HEARING OFFICER VALKOSKY: Yeah,  
15      exactly, in a full and complete manner. I think  
16      we're less worried about the label of the topic,  
17      as opposed to the actual substance of discussion.  
18      So we can certainly defer that discussion to a  
19      future time, unless there is something somebody  
20      wants to add on now.

21         MR. RAMO: I don't think there is an  
22      issue in this case around the census data and the  
23      standard that would be applied to the census data.

24            I think the thrust of the debate has to  
25      do with, given who the community is, are there

1 adverse impacts. And my take is the applicant  
2 says no; the staff says in a couple of instances,  
3 yes, but we've mitigated it, so there is no EJA.

4 And our position is there are adverse  
5 impacts and they aren't sufficiently mitigated.

6 So, it does have some logic when we get  
7 to the point of thinking through how to deal with  
8 this issue, to really focus the environmental  
9 justice discussion on the specific impacts that  
10 are being raised here at public health and air  
11 quality.

12 So, I think the staff's approach makes  
13 some sense. I mean, I think definitely under  
14 socioeconomics there should be a presentation  
15 regarding the census data, and what the facts are  
16 regarding that.

17 But, that's why we were thinking that  
18 her discussion of environmental justice makes more  
19 sense when we're putting forth the particular  
20 analysis or testimony regarding alternatives.  
21 Maybe alternatives, public health, air quality  
22 should be --

23 HEARING OFFICER VALKOSKY: So,  
24 generally, you would endorse the staff, Mr.  
25 Ratliff's suggested approach. Mr. Carroll?

1 MR. CARROLL: I would say generally, we  
2 would, as well. I think it will work to do it on  
3 that basis.

4 I'm not sure that we don't have some  
5 disagreement over methodology and how to treat the  
6 census data and how to define a minority  
7 population in a community that is comprised almost  
8 exclusively of various minority populations.

9 So, I think there are some  
10 methodological differences that we have in our  
11 analysis relative to the staff analysis, but I  
12 think we can take those up under socioeconomics.

13 HEARING OFFICER VALKOSKY: Right, and  
14 for the actual impacts and the degree of  
15 mitigation of the impacts, you are amenable to  
16 doing it on basically a topical basis?

17 MR. CARROLL: Yes, yes.

18 HEARING OFFICER VALKOSKY: Okay. Ms.  
19 Minor?

20 MS. MINOR: The City also has some  
21 issues related to methodology that we've assumed  
22 we would take up under social economics.

23 In terms of the specific topic areas, I  
24 think the important thing is just that we have  
25 consensus about whether environmental justice

1 issues will be taken up under the topic area, so  
2 that as we prepare the testimony, it's included as  
3 a part of the testimony.

4 And if that's what we're going to do, I  
5 think that's an adequate way to cover it.

6 HEARING OFFICER VALKOSKY: Okay, and I  
7 think we will certainly be doing that; and I guess  
8 we'll just have the proviso that the general  
9 methodology and certainly the data approach should  
10 be done under socioeconomics.

11 MR. RATLIFF: That's what we  
12 contemplated.

13 HEARING OFFICER VALKOSKY: Okay, fine.  
14 Great, we got that settled, before we even get to  
15 the redirect.

16 PRESIDING MEMBER PERNELL: Let me just  
17 add that that will also not just include  
18 ethnicity, but income levels as well, when you  
19 talk about the data?

20 MS. MINOR: Yes, right.

21 MR. CARROLL: Yes.

22 PRESIDING MEMBER PERNELL: Okay.

23 HEARING OFFICER VALKOSKY: Okay, again,  
24 that was a productive diversion. Any redirect,  
25 Mr. Ramo?

1           MR. RAMO: I have no redirect. I'm  
2 prepared to move the exhibits.

3           HEARING OFFICER VALKOSKY: Okay,  
4 proceed. Anything else for Ms. Garbesi? Okay.

5           MR. RAMO: I would move both exhibit 70  
6 and exhibit 71. Let me just explain. Exhibit 71  
7 is the ERC settlement. There was, as I indicated,  
8 in submitting it on the record, there was some  
9 testimony and comment between the Committee and  
10 counsel, and I think the witness was Ed Smeloff at  
11 the time, regarding these kinds of credits, and  
12 are they available, and will the Committee -- will  
13 the community be amenable to this kind of approach  
14 for Unit 3 at Potrero.

15           There was also some testimony here today  
16 about whether the staff considered this in their  
17 discussions about the need for Hunter's Point to  
18 have upgrades. And I think it just would help  
19 explain the issue better.

20           So I would move -- this is a settlement  
21 that's been filed with the Bay Area District and  
22 the matter has been taken off calendar as a result  
23 of the settlement.

24           HEARING OFFICER VALKOSKY: Thank you for  
25 that explanation. And to clarify for the record,



1 exhibit 70 would include the exhibit attachment  
2 that you presented us earlier today, the table one  
3 and table two revisions?

4 MR. RAMO: That's correct.

5 HEARING OFFICER VALKOSKY: Okay. Is  
6 there objection?

7 MR. CARROLL: I have an objection to  
8 just one piece of that, and that's table two that  
9 was presented tonight. We just, obviously,  
10 received it tonight. I would like to have an  
11 opportunity to have our air quality experts look  
12 at it. Would ask that this one, or this portion  
13 be withheld until Professor Garbesi is back and we  
14 have an opportunity to cross-examine her on it, if  
15 we have any cross-examination.

16 I recognize she's not going to be here  
17 on air quality, so we would be prepared to ask any  
18 questions when she is back on alternatives. And  
19 assuming we didn't have any questions, it could be  
20 admitted at that time.

21 HEARING OFFICER VALKOSKY: Okay, Mr.  
22 Westerfield, any objections?

23 MR. WESTERFIELD: No objections.

24 MR. RATLIFF: Commissioner, could we  
25 though, ask, inquire as to what -- I'm a little

1       embarrassed to say that we have not actually seen  
2       either one of exhibits 71. We were just  
3       conferring on that point. And we are therefore  
4       uncertain what the document is. And were --

5               HEARING OFFICER VALKOSKY: That was --

6               MR. RATLIFF: -- wondering what its  
7       relevance is to this proceeding.

8               HEARING OFFICER VALKOSKY: That was  
9       submitted on the 27th, I believe, right before  
10      Thanksgiving. You proofed it on everyone,  
11      correct, Mr. Ramo?

12              MR. RAMO: Yes, we filed it with our  
13      other testimony.

14              HEARING OFFICER VALKOSKY: Yeah.

15              PRESIDING MEMBER PERNELL: You are  
16      questioning the relevance?

17              MR. RATLIFF: Could we at least ask for  
18      an offer of proof as to the relevance of the  
19      document before it is submitted?

20              MR. RAMO: There was testimony from  
21      staff's witnesses regarding their local system  
22      effects analysis based on certain assumptions  
23      regarding the need of Hunter's Point to have  
24      upgrades. And there has basically been a  
25      settlement that avoids the problem.

1           And so I think it's relevant to  
2     evaluating the various needs and generation that  
3     is available for the system.

4           It's further relevant down the road.  
5     There was -- well, it was relevant because there  
6     was questioning of Ed Smeloff regarding the  
7     practicality of the Maxwell Ordinance and whether  
8     it was practical to require Unit 3 to be shut  
9     down. And given that there is going to be  
10    upgrades at that point, Mr. Smeloff indicated that  
11    there could be credits.

12           Commissioner Keese inquired about what  
13    kinds of credits those are. So I think it helps  
14    to explain for the Committee the nature of  
15    interchangeable emission reduction credits and how  
16    another facility, PG&E, are using them.

17           So in that sense only, is what I'm  
18    offering them.

19           MR. RATLIFF: I appreciate the  
20    explanation. We have no objection to it.

21           HEARING OFFICER VALKOSKY: Okay. We  
22    will admit exhibit 71; admit exhibit 70 with the  
23    proviso that we will reserve Mr. Carroll the right  
24    to question concerning table two of the  
25    attachments, dealing with the PM10 emissions.

1 That was the only exception you had, is that  
2 correct?

3 MR. CARROLL: Yes, it was.

4 HEARING OFFICER VALKOSKY: Okay, that  
5 will be the order on that.

6 Could we go off the record for just a  
7 second, please?

8 (Off the record.)

9 HEARING OFFICER VALKOSKY: Okay, back on  
10 the record. Thank you, Ms. Garbesi.

11 PRESIDING MEMBER PERNELL: Thank you,  
12 happy holidays.

13 HEARING OFFICER VALKOSKY: We've  
14 admitted the exhibits.

15 The final portion of this evening's  
16 agenda concerns the various related procedural  
17 items. First of which is the status of the  
18 biological opinion. Mr. Carroll?

19 MR. CARROLL: Yes, we have recently been  
20 in contact with National Marine Fisheries Service.  
21 They have indicated that they expect to have a  
22 draft biological opinion to the U.S. Environmental  
23 Protection Agency by mid-December for their  
24 review.

25 And we would anticipate, depending on

1       how long EPA takes to review that internal draft,  
2       that it will be available within three or four  
3       weeks after the draft goes to EPA.

4               HEARING OFFICER VALKOSKY:  Okay, and you  
5       don't have any fix on depending on how long it  
6       takes in their review portion?

7               MR. CARROLL:  I do not.  No, I don't.

8               HEARING OFFICER VALKOSKY:  Okay, thank  
9       you.

10              MR. CARROLL:  There is not a regulatory  
11       or statutory deadline for EPA review of the draft,  
12       so we'll certainly encourage them to do it  
13       quickly.

14              HEARING OFFICER VALKOSKY:  Right, but  
15       right now you're looking at mid-January without  
16       counting the review time?

17              MR. CARROLL:  No, I would say mid-  
18       January with the review time.

19              HEARING OFFICER VALKOSKY:  With the  
20       review time.

21              MR. CARROLL:  It'll be to EPA for review  
22       by mid-December.

23              HEARING OFFICER VALKOSKY:  Okay, all  
24       right, thank you.

25              Mr. Westerfield, you had information on

1 the status of the biological opinion?

2 MR. WESTERFIELD: Yes, I think Marc  
3 Pryor has spoken to NMFS and he might have a few  
4 facts for us.

5 HEARING OFFICER VALKOSKY: Okay, Mr.  
6 Pryor.

7 MR. PRYOR: I spoke with Joe Dillon with  
8 the Fisheries Service on Friday. There are  
9 actually two documents that they are preparing.  
10 One is a biological opinion and the other is the  
11 essential fish habitat.

12 Mr. Rogin, with the Fisheries Service,  
13 is drafting the biological opinion portion. Mr.  
14 Dillon indicated that will not be submitted to  
15 management for review until the end of December,  
16 early January. And he would not speculate on how  
17 long it would take to turn that document around.

18 The essential fish habitat he had  
19 finished, but it will be simultaneous with the  
20 biological opinion. And I can go into further  
21 detail as to why it has been delayed a bit, if you  
22 would like.

23 HEARING OFFICER VALKOSKY: No, I think  
24 you can spare us the details.

25 MR. PRYOR: Thank you.

1           HEARING OFFICER VALKOSKY:  So,  
2           basically, your information seems to indicate  
3           somewhat longer than the mid-January timeframe  
4           that Mr. Carroll mentioned?

5           MR. PRYOR:  I would estimate two to  
6           three weeks

7           HEARING OFFICER VALKOSKY:  At least two  
8           to three --

9           MR. PRYOR:  Two to three weeks longer  
10          than Mr. Carroll's estimate.

11          HEARING OFFICER VALKOSKY:  Okay, so  
12          looking at the middle of February, should we say?  
13          Is that --

14          MR. PRYOR:  Yes.

15          HEARING OFFICER VALKOSKY:  All right,  
16          thank you.

17          MS. MINOR:  Mr. Valkosky, I have just a  
18          question about the status of the draft, and it's  
19          because I don't fully understand NMFS and EPA's  
20          processes for this.  Is that an internal working  
21          confidential draft, or is it a draft that is  
22          shared with the applicant?

23          MR. CARROLL:  My understanding is that  
24          it is an internal draft, so it's agency-to-agency.  
25          It would not be shared with us.

1 MS. MINOR: Okay.

2 HEARING OFFICER VALKOSKY: Okay, any  
3 more discussion on the biological opinion?

4 That takes to the status or progress on  
5 developing the cooling system alternative. Mr.  
6 Carroll?

7 MR. CARROLL: Yes, since we were last  
8 here we have had one meeting and one conference  
9 call with the City to discuss the feasibility of  
10 hybrid cooling system, tying in the City's  
11 wastewater treatment plant.

12 The City provided the applicant with a  
13 list of design engineering firms that the City  
14 would be comfortable with. The applicant  
15 requested qualifications from approximately 12 to  
16 15 of the firms on that list.

17 The deadline was last Friday for the  
18 qualifications. We received five indications of  
19 interest. We will now go out and we'll consult  
20 with the City on this. Probably three or so of  
21 those five, and request a specific proposal for  
22 the design of the cooling system, including the  
23 treatment facility.

24 And then from those three proposals,  
25 again in consultation with the City, select the



1 design engineering firm.

2 We're anticipating that that process,  
3 both the going out for the specific request for  
4 proposals, selecting the design engineering firm,  
5 and having them complete the work, will take us  
6 roughly until the end of the first quarter of next  
7 year. So approximately, a three-month plus  
8 process, recognizing that not too much will get  
9 done in the latter part of December.

10 The other piece that is in the works is  
11 a cost reimbursement agreement under which Mirant  
12 would reimburse the City for certain of its time  
13 and expenses associated with the review of the  
14 alternative. The City has provided us a draft.  
15 We have reviewed that draft and expect to get a  
16 revised proposal to the City by tomorrow or the  
17 next day. But the critical path item is getting  
18 the engineering firm on board.

19 HEARING OFFICER VALKOSKY: Ms. Minor, do  
20 you have anything to add to that?

21 MS. MINOR: I have nothing to add, it's  
22 consistent with the City's understanding and the  
23 process that we're undertaking.

24 HEARING OFFICER VALKOSKY: Okay.

25 PRESIDING MEMBER PERNELL: So the road

1 we're going down with the City and the applicant  
2 is that the -- you're entertaining an alternative  
3 cooling proposal?

4 MR. CARROLL: We are. And I think that  
5 the position that we would hope to be in by  
6 roughly the end of the first quarter, would be to  
7 be able to say to the Committee what I think you  
8 want to hear, which is, we're going to submit an  
9 amendment to the application to substitute an  
10 alternative cooling system.

11 Or based on the engineering and cost  
12 analysis and our inability to negotiate an  
13 agreement with the City, we're going to proceed  
14 with the project as proposed.

15 PRESIDING MEMBER PERNELL: Because right  
16 now what the Committee has is an application. And  
17 we're proceeding with the project as proposed.

18 MR. CARROLL: Right.

19 PRESIDING MEMBER PERNELL: And at some  
20 point, you know, the Committee is going to get to  
21 the end of that conference call negotiation period  
22 that has been going on. So the sooner we get some  
23 kind of alternative proposal would be the better.  
24 But we have to go forward. I hope everybody  
25 understands that.

1           MR. CARROLL: We certainly understand  
2           that. And in order for us -- to answer your  
3           initial question, we are entertaining an  
4           alternative cooling system. In order to determine  
5           whether or not we can indeed implement that  
6           alternative cooling system, we need to know that  
7           it's technically feasible, and that the cost is  
8           within a range that the project could bear. Those  
9           two things will come from the design engineering  
10          firm.

11                 We also need to negotiate, or at least  
12          have the basics of an agreement, with the City to  
13          obtain the greywater from the waste water  
14          treatment facility.

15                 And again, what we would hope is that by  
16          the first quarter of next year we will certainly  
17          have the first two pieces from the design  
18          engineering firm. And we're hoping that we will  
19          have made some progress with the City, and whether  
20          or not the third piece can be put in place.

21                 And if we can get all three of those  
22          pieces, then I anticipate what we would be saying  
23          to you is we will be submitting an amendment to  
24          the application.

25                 If we can't get all three of those

1 pieces, then we would be saying proceed with the  
2 project as it currently is proposed.

3 HEARING OFFICER VALKOSKY: And that  
4 decision drop-dead date will be March 31st,  
5 roughly?

6 MR. CARROLL: Roughly.

7 HEARING OFFICER VALKOSKY: Roughly,  
8 right. Now, --

9 PRESIDING MEMBER PERNELL: Do we have  
10 sufficient work to do in between those, in between  
11 that time?

12 HEARING OFFICER VALKOSKY: It is getting  
13 increasingly difficult to identify topics that we  
14 could proceed with without, you know, again  
15 assuming the application is amended, without  
16 having to go back and revisit that topic.

17 And that's one of the concerns the  
18 Committee has. I mean, what it really comes down  
19 to is, should we attempt to proceed during the  
20 first quarter of '03, or should we basically wait  
21 until the end of the first quarter for the  
22 applicant to make its decision?

23 MR. CARROLL: What applicant would  
24 suggest is that we continue to proceed. We think  
25 that two topics that could be taken up would be

1 air quality and public health. And while those  
2 topics are minimally impacted by the choice of  
3 cooling system, they are not significantly  
4 impacted by the choice of cooling system. And we  
5 believe that we could efficiently deal with those  
6 topics.

7 And that in the event that the cooling  
8 system did change, come back in a relatively short  
9 period of time, and pick up additional items that  
10 flow from the change in the cooling system.

11 So what applicant would suggest, in  
12 terms of schedule, is that those two topics be  
13 scheduled some time in late January, early  
14 February. And that we proceed with the process  
15 along those lines.

16 HEARING OFFICER VALKOSKY: Would any  
17 effect, as a result of a change in cooling system,  
18 require a new FDOC? Or do you know?

19 MR. CARROLL: It would require an  
20 amended FDOC, because we would have additional  
21 particulate emissions from the cooling tower that  
22 were not taken into consideration in the original  
23 FDOC.

24 HEARING OFFICER VALKOSKY: Okay.

25 MS. MINOR: In addition, in our last

1 status conference, there was discussion about the  
2 status of Mirant filing for an amendment to its  
3 permit, and then withdrawing that permit -- then  
4 withdrawing that application.

5 Subsequent to the last hearing, on  
6 November 8th, the City filed basically a statement  
7 clarifying its position, and specifically urging  
8 Mirant to resubmit the modification to its air  
9 permit.

10 We haven't discussed it with Mirant, but  
11 I think given its interest in proceeding with air  
12 quality, I think it's important to know whether or  
13 not Mirant intends to proceed with the  
14 modification to its air permit.

15 HEARING OFFICER VALKOSKY: Okay, well  
16 could you answer the question?

17 MR. CARROLL: Not at this time.

18 HEARING OFFICER VALKOSKY: Okay.

19 PRESIDING MEMBER PERNELL: Well, you  
20 know, it's the Committee's intent not to have this  
21 hearing go for three or four years. So, I'm  
22 really patient, but there has to be some  
23 resolution to some of these issues, because there  
24 is other work that staff and the Committee and I'm  
25 sure everyone in here has to do.

1           So, I'm not interested in a series of  
2 meetings that are going around and around in a  
3 circle. I would want to see some progress being  
4 made and/or some drop-dead dates so that we can  
5 either go forward with an amendment, or go forward  
6 with the proposed project as-is.

7           So I would just urge all of the parties  
8 to, you know, be vigilant in these negotiations,  
9 phone calls.

10          The only thing that I think we don't  
11 have a good handle on is what the federal  
12 government is doing with your permits. And I'm  
13 not sure that it would be relevant if we came into  
14 an agreement on alternative cooling system.

15          So, I mean, the future of this project  
16 is in this room, basically. But, I'm not  
17 interested, or the Committee is not interested in  
18 going round and round and round and coming back  
19 again. So, that's just from the Committee's  
20 perspective. We want to move forward with the  
21 existing application, or with some alternative.  
22 Are there any questions on that?

23          HEARING OFFICER VALKOSKY: Staff, do you  
24 have anything to add to this discussion?

25          MR. WESTERFIELD: Mr. Valkosky, Kevin

1 Kennedy has joined us to articulate the staff's  
2 perspective on the situation.

3 MR. KENNEDY: Yes, we had this same  
4 discussion internally among staff and come to much  
5 the same conclusion that the applicant has come  
6 to. That it would seem to be appropriate at this  
7 stage to move on with air quality and public  
8 health.

9 We do have some hesitation in that a  
10 revised cooling system will require some degree of  
11 revisiting of those topics because of the cooling  
12 tower emissions. But we believe that that  
13 revision could be handled in a relatively  
14 straightforward manner at the point when the  
15 revised application came in.

16 We are definitely interested in seeing  
17 the City and the applicant come to some agreement  
18 on the reclaimed water. We think that that is a  
19 much better approach. We do think that it is  
20 appropriate to keep the proceedings moving and  
21 those do seem to be topics that the real key  
22 issues in them can be handled at this stage.

23 So, the staff would agree with the  
24 applicant's suggestion.

25 HEARING OFFICER VALKOSKY: Okay.



1                   PRESIDING MEMBER PERNELL: Thank you.

2                   HEARING OFFICER VALKOSKY: Mr. Ramo?

3                   MR. RAMO: Just so the record is clear,  
4                   the intervenors that I represent strenuously  
5                   object with going with air quality and public  
6                   health. We think it's completely inappropriate.

7                   The City of San Francisco now has access  
8                   to additional turbines; they're going to put it  
9                   somewhere. They're probably going to put it in  
10                  the southeast San Francisco. And if it's not  
11                  southeast San Francisco, it'll be close enough.

12                  It's not going to be put in Pacific  
13                  Heights; it's not going to be put west of Twin  
14                  Peaks. And the staff has not analyzed what it  
15                  means to run three additional peakers with Unit 7,  
16                  with Hunter's Point. And that absolutely has to  
17                  be analyzed.

18                  Now these events occurred after the  
19                  staff did their final staff assessment. I'm not  
20                  holding them responsible for that, but sufficient  
21                  time has passed where things are happening. The  
22                  City is moving ahead with its alternative  
23                  approach. And to do an air quality analysis and  
24                  public health analysis now, while you're ignoring  
25                  other generating units that are reasonably

1       foreseeable now, I think is just atrocious. We're  
2       not ready for that. Let alone, a cooling system  
3       which will never be agreed to, while the Maxwell  
4       Ordinance is in place.

5               So, that's why we say it should be  
6       suspended. If you want to test out whether that's  
7       going to be the project, my suggestion is that you  
8       continue this matter until March 31st. You let  
9       staff do the updates that they need to do based on  
10      what's happening with the City and their plan,  
11      which will be final in a couple weeks, and  
12      adopted.

13             And what's happening with Mirant. So we  
14      aren't surprised by any more settlements that  
15      dramatically change things.

16             So, if you're not going to suspend it,  
17      continue it. And if you're not going to continue  
18      it, the last thing you should be doing is air  
19      quality and public health, unless you want us all  
20      shooting from the hip on what these generators  
21      mean.

22             So we aren't pleased with those two  
23      categories.

24             HEARING OFFICER VALKOSKY: What is the  
25      status of the San Francisco energy plan, Ms.

1 Minor?

2 MS. MINOR: The energy plan was before  
3 the board today, for approval. And the Williams  
4 settlement and the DWR long-term purchase  
5 agreement that accompanies the four turbines is  
6 scheduled for final approval before the board,  
7 board of supervisors, on December 16th.

8 PRESIDING MEMBER PERNELL: So San  
9 Francisco is scheduled to get four turbines?

10 MS. MINOR: Four turbines; \$19 million  
11 to help site those turbines; and we have one year  
12 under the Williams settlement to find a site and  
13 to indicate to you that we're ready to proceed  
14 with siting.

15 HEARING OFFICER VALKOSKY: Could you  
16 provide us a summary of what the board's action  
17 is?

18 MS. MINOR: Yes, actually I brought a  
19 few extra copies today, understanding that this is  
20 not the final document, because it has not, as of  
21 yet, been approved.

22 (Pause.)

23 HEARING OFFICER VALKOSKY: I guess --  
24 thank you for providing this. I guess the only  
25 thing I would ask in addition is that you let us

1 know what action the board takes on this.

2 MS. MINOR: I will.

3 HEARING OFFICER VALKOSKY: Okay. Any  
4 further discussion on this matter?

5 MR. GARCIA: I have a question for Ms.  
6 Minor.

7 MS. MINOR: Yes.

8 MR. GARCIA: Do you know if these are  
9 vintage turbines, and if they are like simple-  
10 cycle or --

11 MS. MINOR: They are LM6000s.

12 MR. GARCIA: Are they used?

13 MS. MINOR: No, they are new, still  
14 under warranty.

15 PRESIDING MEMBER PERNELL: Have they  
16 been used?

17 MS. MINOR: No, they are new, still  
18 under warranty.

19 PRESIDING MEMBER PERNELL: Okay.

20 HEARING OFFICER VALKOSKY: Okay.

21 MR. WESTERFIELD: I actually have a  
22 question for Ms. Minor, if it might help things.  
23 I mean, Mr. Ramo here just sort of made an  
24 assertion that he thought the energy plan would be  
25 approved by the City within a couple of weeks.

1 Jackie, do you have any response to that, or --

2 MS. MINOR: The energy plan is on the  
3 agenda of the board of supervisors for approval  
4 today. So I should know when I leave here if the  
5 energy plan was approved by the board.

6 And then the Williams settlement and the  
7 accompanying DWR long-term power purchase  
8 agreement are scheduled for approval by the board  
9 on the 16th.

10 HEARING OFFICER VALKOSKY: And, Ms.  
11 Minor, you will let us know the results of those  
12 actions?

13 MS. MINOR: Yes.

14 PRESIDING MEMBER PERNELL: And the  
15 Jefferson-Martin line is part of that plan?

16 MS. MINOR: No, Jefferson-Martin is  
17 being handled independently by PG&E. PG&E has  
18 made the formal filing with the CPUC.

19 The CPUC has not, as of yet, scheduled  
20 its preliminary public conference. As Mr. Ramo  
21 indicated, we do have some indication that there  
22 is at least one neighbor group that has organized  
23 to oppose the Jefferson-Martin line.

24 PRESIDING MEMBER PERNELL: Right, I  
25 thought there was some type of transmission

1 upgrade as part of the San Francisco energy plan.  
2 And you're saying that's not the Jefferson-Martin  
3 line?

4 MS. MINOR: The energy plan refers to a  
5 number of transmission projects that the San  
6 Francisco long-term study group had previously  
7 indicated needed to be done for reliability  
8 purposes.

9 The important one is the upgrade of the  
10 San Mateo-Martin line from 60 kV to 115 kV.  
11 That's a PG&E reliability project that is  
12 underway. PG&E has filed for a permit to  
13 construct with the CPUC, and they expect it to be  
14 completed by the end of 2004.

15 PRESIDING MEMBER PERNELL: Okay.

16 MS. MINOR: There are various other  
17 transmission upgrades in the City that are  
18 currently scheduled and underway that will  
19 increase the reliability of the system and the  
20 import capability into the City.

21 PRESIDING MEMBER PERNELL: Okay. I mean  
22 I understand that there are other variables  
23 involved here, but it seems, it's just my personal  
24 opinion, but it seems every time I come down here  
25 there is a different set of circumstances that

1 affects the timeline of this Committee.

2 And I'm not in the -- well, scratch  
3 that. I'm not looking forward to sitting before a  
4 Legislative Committee saying that it's taking us  
5 too long to site power plants. Especially on any  
6 of my cases.

7 So my earlier comments stand, I'm  
8 patient and I'm happy to see a lot of development  
9 going on here, but I would just urge the parties  
10 to conclude with those as soon as possible.

11 MS. MINOR: Well, and, Commissioner  
12 Pernell, I think the other thing that I will point  
13 out is that the Williams settlement is really a  
14 state-driven settlement.

15 San Francisco was a fairly minor player.  
16 We are an important beneficiary of a settlement  
17 that was really driven by the Governor. And there  
18 are many statewide benefits --

19 PRESIDING MEMBER PERNELL: Are you  
20 complaining about the settlement?

21 MS. MINOR: Pardon me?

22 PRESIDING MEMBER PERNELL: Are you  
23 complaining about that settlement?

24 MS. MINOR: No, we're absolutely  
25 delighted. Not only did we get four new LM6000s,

1 we got four-sixths of \$19 million to help us site  
2 it, so we have the development costs covered.

3 The City Attorney's Office received a  
4 half a million dollars in attorney's fees.  
5 Williams is contributing toward attorney's fees  
6 for the larger class-action that is currently  
7 underway.

8 So this is a really exciting thing. And  
9 we are at the early stage of getting it approved  
10 by our board, and then looking at the  
11 implementation of the Williams settlement.

12 PRESIDING MEMBER PERNELL: And I would  
13 agree, I am excited for you. I mean, I think  
14 getting something out of Williams, no pun intended  
15 with Mirant, but, is a good thing.

16 But the fact remains that we've got all  
17 these pieces, and we need to begin to put them  
18 together, that's all I'm saying.

19 And we have, we, as the Committee, has  
20 an obligation to, at some point, finish these  
21 cases. So, you know, there are other things that  
22 are in the mix, and we're all excited for them.  
23 You know, I'm just glad the state is getting  
24 something.

25 But the fact remains we have an



1 obligation, as the Committee, to finish the case.  
2 So all I'm doing is urging that the parties take  
3 all of these pieces and everything else that's --  
4 when we come again, we don't have another five of  
5 six different pieces.

6 But we want to put them together and get  
7 done. I'm interested in getting done here. So,  
8 you know, I'm not criticizing anyone, I'm simply  
9 saying that there are -- the last time we were  
10 down here, there was discussion about -- are we  
11 off the record?

12 (Laughter.)

13 HEARING OFFICER VALKOSKY: Would you  
14 like to go off?

15 PRESIDING MEMBER PERNELL: Perhaps I  
16 should go off the record.

17 (Off the record.)

18 HEARING OFFICER VALKOSKY: While we were  
19 off the record, the parties discussed in general  
20 the Williams settlement. And the present status  
21 is that Ms. Minor will inform us of what happens  
22 on December 16th, excuse me.

23 Is there any more discussion on the  
24 second item, procedural item on the agenda?

25 Okay, turning to the final item,

1 Mr. Ramo, did you want to present anything  
2 additionally, orally on your motion that you  
3 submitted on the 27th?

4 MR. RAMO: I'll just make a couple of  
5 additional comments. In terms of the second issue  
6 regarding San Francisco's energy plan and the  
7 implementation of their strategy and the Williams  
8 settlement, it's our view that this crosses the  
9 line in terms of, under CEQA, what constitutes a  
10 reasonably foreseeable project.

11 Especially in the context of a  
12 proceeding which has decided to go ahead even  
13 though the applicant hasn't established site  
14 control.

15 It would be offensive to say we could  
16 disregard the City's plans, knowing the vicinity  
17 where these turbines are being sited, because they  
18 haven't completed their siting process.

19 In terms of the first issue, let me  
20 first say that on a personal level, in terms of my  
21 contact with Mirant personnel, their staff, their  
22 managers, their counsel, and their consultants,  
23 they have been of the utmost professionalism and  
24 in good faith in dealings with me, personally.

25 And so I must admit that I find it hard

1 to square my personal interactions with all of  
2 them with the allegations that are being made  
3 across the country about their actions during the  
4 energy crisis.

5 Nevertheless, those allegations are  
6 being made, and I think given who is making them,  
7 raises it beyond something that's frivolously  
8 filed in court, or some obscure claim in some  
9 newspaper about how someone feels about Mirant.

10 And that's what's triggered our concern.  
11 Now, at what point you look at the conduct of an  
12 applicant as part of a CEQA proceeding, there  
13 isn't a lot of guidance from case law.

14 It struck us that in a proceeding where  
15 you have categories like reliability, local system  
16 effects, where the testimony from the staff,  
17 questions from the Committee, addresses issues  
18 like how will you operate the power plant? How  
19 will you maintain the power plant? What will be  
20 the impact of you operating this facility?

21 Reflects that in the context of this  
22 proceeding, there are profound significant  
23 impacts, which the applicant's witness indicated,  
24 if this facility is operated in the way that it  
25 was alleged that Unit 3 and other Mirant

1 facilities were operated in the past.

2 All of this becomes relevant in the  
3 sense of assuring that there is a sufficient  
4 alternatives analysis, and there is a sufficient  
5 mitigation analysis if the Committee proposes to  
6 go ahead and certifies this project with Mirant.

7 California agencies are struggling with  
8 what their authority is to prevent a renewed  
9 energy crisis. And there was an energy crisis.  
10 And we have a different system where we don't have  
11 a default owner of generating units. Anyone can  
12 come forward.

13 And so who they are and how they  
14 operated, given what is alleged to have occurred,  
15 and given what actually occurred during the energy  
16 crisis, is crucial.

17 So all we're saying is that we think the  
18 staff should take a hard look at what is going on  
19 with every other California agency that is looking  
20 into Mirant. And determine what is the extent  
21 that your permitting power, which is not  
22 restricted in the way that the Public Utilities  
23 Commission is, and is not restricted by FERC, to  
24 what degree -- and maybe the only thing we have  
25 left in California -- to what degree your

1       permitting or certification authority allows you  
2       to assure that whatever happened in the past won't  
3       happen in the future.

4               And that's what we're asking you to  
5       direct the staff to look at.

6               HEARING OFFICER VALKOSKY: Thank you.  
7       Mr. Ratliff, Mr. Kennedy, who is going to respond?

8               MR. RATLIFF: Well, Dick Ratliff of the  
9       staff. About six months ago I was in this  
10      building to listen to a presentation about the  
11      energy crisis of 2001.

12              And there was a presentation by the  
13      Attorney General who was responsible for that  
14      proceeding, in which he spoke at length about the  
15      difficulties of trying to determine what, in fact,  
16      happened, and who was, in fact, responsible. And  
17      if, in fact, there were any wrongdoing with regard  
18      to the participants that the Attorney General was  
19      investigating.

20              I think, though, what ultimately we have  
21      here, is a speculative concern that the applicant  
22      here is a law breaker, or has been, I should say,  
23      guilty of breaking the law. That is what the  
24      ongoing investigations are trying to determine.  
25      That is what the PUC tried to address in its

1 report. And that is what, at great length, Mirant  
2 answered the PUC's allegations with.

3 I don't have any ability to understand  
4 how that is relevant to this proceeding. And I  
5 cannot imagine what conditions, assuming we could  
6 come out with some notion of what, we could  
7 somehow second guess the evaluations that others  
8 are trying to or attempting to come up with for  
9 what happened, I can't imagine what conditions  
10 they would result in.

11 Clearly, there are conditions that deal  
12 with illegal behavior. And those are the laws of  
13 the United States and the laws of the State of  
14 California, and that is what is the subject of  
15 those ongoing proceedings.

16 I think, I mean we could have a general  
17 condition, I suppose, that said Mirant shall obey  
18 the law. But Mirant has to obey the law anyway.  
19 And until I can better understand the relevance of  
20 how the staff's inquiry into this would somehow  
21 lead to something constructive, I think staff  
22 would just have to be in opposition to it.  
23 Because we would have no idea as to what to do  
24 with such a proposal, and I don't think it could  
25 come to anything very useful to anyone.

1 HEARING OFFICER VALKOSKY: Thank you.

2 Mr. Carroll, anything to add?

3 MR. CARROLL: With respect to the first  
4 basis for requesting an additional investigation,  
5 I would concur with what Mr. Ratliff has just  
6 said.

7 We, too, feel that it is based on speculation  
8 about what may or may not have happened. And, in  
9 fact, we think that beyond that there are two  
10 additional levels of speculation that it requires,  
11 or asks this Committee and the staff to speculate,  
12 in the first instance, about what or what did not  
13 happen, and to assume that Mirant took  
14 inappropriate actions, which is a matter of hot  
15 dispute.

16 Second, to then speculate that those  
17 past actions have some bearing on future actions  
18 with respect to Unit 7.

19 And then the third level of speculation  
20 would be that those future actions have some  
21 environmental consequences that are worthy of  
22 review under the California Environmental Quality  
23 Act.

24 We think that with respect to all three  
25 of those levels, we've got nothing but

1 speculation. And that CEQA does not require this  
2 Committee or this staff to undertake an  
3 investigation of that. And, in fact, as a  
4 practical matter, it would be impossible to do so.

5 With respect to the second basis for  
6 requesting additional investigation, we've already  
7 spent some time talking about that.

8 But, I'll just reiterate that we don't  
9 believe CEQA requires this Committee, in the  
10 course of proceedings, to stop and undertake an  
11 evaluation of speculative projects that come  
12 along.

13 And, in fact, I would go further to say  
14 that even when the project becomes more real, in  
15 terms of the site being identified, we don't  
16 believe that CEQA requires the analysis of that  
17 future project to be undertaken in the context of  
18 this project.

19 Those projects will be subject to their  
20 own review under the California Environmental  
21 Quality Act, and, in fact, will have to undertake  
22 a cumulative analysis that takes into effect the  
23 existing or approved projects, including Potrero  
24 Unit 7.

25 So the environmental analysis of those



1 projects will certainly come under CEQA, but not  
2 in the context of these proceedings, but in the  
3 context of the proceedings to approve those future  
4 projects in the City.

5 HEARING OFFICER VALKOSKY: Okay. Ms.  
6 Minor?

7 MS. MINOR: The City actually is not  
8 going to weigh in on the first request, which  
9 relates to assessing the impact of the alleged bad  
10 acts and the impact on these proceedings.

11 In terms of the second issue, we do  
12 think review of the energy plan, as an  
13 alternative, is an important task for the staff to  
14 undertake. We've already received several  
15 preliminary inquiries from various members of the  
16 CEC Staff about the energy plan. And as soon as  
17 it's finalized, we will file the final document,  
18 or docket the final document with the CEC. And  
19 we'll distribute it to those CEC Staff Members and  
20 consultants who have asked for it.

21 In terms of the Williams settlement, as  
22 it proceeds and becomes more concrete in the City,  
23 to the extent this matter is still proceeding on a  
24 slow track, we do think it's important because I  
25 think an important consideration here is that the

1 design that's pending before you now does not  
2 include site control.

3 And to the extent that the City comes  
4 forward with a proposal that does have site  
5 control, because the City will control the land  
6 probably, where the LM6000s will be sited, it will  
7 be an important alternative that would be critical  
8 for the staff to evaluate and for you to consider,  
9 as we assess the likelihood as to whether or not  
10 can be licensed and built.

11 PRESIDING MEMBER PERNELL: Ms. Minor, do  
12 you have any idea what the timeframe is that the  
13 City is working under, in terms of finding a  
14 location for the newly acquired generators?

15 MS. MINOR: If the question is when will  
16 the City publicly announce a site, I don't know  
17 the answer to that question.

18 Obviously, environmental work,  
19 significant environmental work is going to be  
20 required for any site that we're looking at.

21 And at this point, I can't answer  
22 whether we're talking about first or second  
23 quarter of 2003.

24 But it is a very important thing for us  
25 to do as quickly as possible because one of the

1 terms of the settlement is that we must have  
2 identified a site and started the licensing  
3 process within a year.

4 PRESIDING MEMBER PERNELL: Do you  
5 envision all four of those being on one site?

6 MS. MINOR: No.

7 PRESIDING MEMBER PERNELL: Okay.

8 HEARING OFFICER VALKOSKY: Mr. Kennedy,  
9 does staff's alternative analysis include the  
10 energy plan, the San Francisco energy plan?

11 MR. KENNEDY: It does not at this point,  
12 but we certainly intend to include that as an  
13 update to the alternatives analysis once the  
14 evidentiary hearing gets to that stage.

15 HEARING OFFICER VALKOSKY: Thank you.  
16 Mr. Carroll, you indicated that you wanted to file  
17 written comments in response to Mr. Ramo's filing?

18 MR. CARROLL: We would like to make sure  
19 that the record is clear on applicant's position  
20 with respect to that filing. And we'd like to do  
21 that in a comprehensive way in writing, and would  
22 ask for perhaps two weeks from today to file that  
23 document.

24 HEARING OFFICER VALKOSKY: How about  
25 until the end of the year?

1 MR. CARROLL: Okay.

2 HEARING OFFICER VALKOSKY: Which is  
3 three weeks, I guess, --

4 MR. CARROLL: Yes, I guess it is --

5 HEARING OFFICER VALKOSKY: -- three  
6 weeks from today, whatever.

7 MR. CARROLL: -- not much different.

8 HEARING OFFICER VALKOSKY: Yeah. So  
9 make that due December 31st. Other parties, to  
10 the extent that they may wish, have leave to file  
11 supplemental materials on that, too.

12 At this point, I would like to ask if  
13 there is any public comment, either on local  
14 system effects or on any other procedural items  
15 that we have been discussing?

16 Seeing none, we'll close the record on  
17 local system effects.

18 And I'm instructed by Commissioner  
19 Pernell that as a gesture of holiday goodwill  
20 there will be no hearing tomorrow.

21 (Laughter.)

22 PRESIDING MEMBER PERNELL: That is  
23 correct. However, on behalf of the Committee, and  
24 certainly the Commission, I want to wish everybody  
25 a happy holiday. Get some rest. And I do

1 appreciate everybody coming out, being patient in  
2 these proceedings. I know it gets a little rough,  
3 but we will get to the end.

4 HEARING OFFICER VALKOSKY: The last  
5 thing, and again also by December 31st and  
6 sincerely, it doesn't mean we're going to be  
7 proceeding with hearings, but I would like to know  
8 the witness availability of the parties' witnesses  
9 for, say from January 15th through March 31st.

10 MR. RAMO: For which subjects?

11 HEARING OFFICER VALKOSKY: For air  
12 quality and public health, which would be the ones  
13 at the top. And, again, please don't interpret  
14 that as meaning that we will go ahead, but I think  
15 it's some information that the Committee would be  
16 interested in.

17 MR. WESTERFIELD: And when would you  
18 like that?

19 HEARING OFFICER VALKOSKY: By December  
20 31st is fine.

21 MS. MINOR: I'm sorry, would you tell us  
22 the range of dates, again. January?

23 HEARING OFFICER VALKOSKY: January 15th  
24 through March 31st.

25 PRESIDING MEMBER PERNELL: All right, is

1       there anything else to come before the Committee?

2               Seeing none, this Committee is

3       adjourned. Happy holidays.

4               (Whereupon, at 6:55 p.m., the hearing

5       was adjourned.)

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## CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of December, 2002.

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